

Bay Farm Grange Road, Bursledon, Hants, SO31 8GD

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1. Introduction

- 1.1. This Planning Statement has been prepared in support of an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD) made under Section 191 of the Town and Country Planning Act 1990 (the TCPA, as amended), for the existing use of the land at Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD for: *“a mixed-use residential caravan site, roofing contractor storage, caravan storage and vehicle storage”*.
- 1.2. The Statement is accompanied by the following documentation:
 - Cover Letter
 - Requisite Application Form (via the Planning Portal Ref: PP-11453738).
 - A Site Location Plan at Scale 1:1250
- 1.3. The Local Planning Authority (LPA, or Council) for the site is Eastleigh Borough Council.

Site & Surroundings

- 1.4. The Bay Farm is located on the north-east side of an unnamed private roadway which leads south-east from Grange Road to the northeast of the village of Butlocks Heath. The application relates to an area of land at the Bay Farm site rectangular in shape, measuring some 0.8Ha in area, accessed via an existing gated access off Grange Road located at the southern end of the site. Within the site are three static caravans with associated ancillary outbuildings and an amenity building. The site also contains a number of touring caravans and vehicles, including boats, cars and small vans, as well as general storage relating to a roofing contractor business.
- 1.5. The site is relatively level and quite open, with no trees of note on the site. To the north and south of the site lies open countryside, to the west is an industrial site used in association with the marine industry, with Oak Farm and Pennywise Farm to the east of the site. The site is largely bounded by post and rail fencing to the rear (northern) part of the site with high hedges a feature around the southern half of the site, particularly prominent along the boundary with the industrial site to the west and at the front of the wider site on access road.
- 1.6. Further land in the applicant's ownership sits immediately to the south-west of the application site, including the applicant's own residence and agricultural barns and stables.

2. Definitions and Guidance

- 2.1. We set out below the background to CLEUD applications before discussing the evidence and drawing conclusions.

Purpose of Section 191 CLEUDs

- 2.2. The purpose of a CLEUD application is to establish that either:
- a) *an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990; or*
 - b) *a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990.*

(Planning Practice Guidance (PPG) 001 Reference ID: 17c-001-20140306).

- 2.3. For a use to be considered lawful, the use must have been in continuous use for a period of ten years. For the avoidance of doubt, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required (PPG, 001 Reference ID: 17c-003-20140306).
- 2.4. In order to demonstrate this, Planning Practice Guidance (PPG) states that it is the Applicant who is *'responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence'* (PPG, 006 Reference ID: 17c-006- 20140306).
- 2.5. As with any application for a Lawful Development Certificate (LDC), the onus is on the Applicant to provide sufficient information to support the application. The PPG sets out that *'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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'* (Paragraph: 006 Reference ID: 17c-006-20140306).
- 2.6. The guidance quoted above provides the basis on which any LDC application under Section 191 should be assessed. This approach has been followed by the Applicant, demonstrated by the presentation of the evidence below to support the case and demonstrate, on the balance of probability, that the use undertaken at the land in question is lawful.

Burden of Proof

- 2.7. The burden of proof is on the Applicant, but the courts have held that the relevant test of the evidence on such matters is 'the balance of probability'. And as this test will accordingly be applied by the Secretary of State in any appeal against their decision, a Local Planning Authority (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. Gabbitt v SSE and Newham LBC* [1985] J.P.L. 630) that the Applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted. If the LPA has no evidence of its 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 the certificate 'on the balance of probability'.
- 2.8. It is noted that planning policy and other matters are not relevant for the purposes of S191 LDC applications, which are to be determined on a matter of fact and degree basis. As such, the site's designations or policy status are not relevant to the application, nor are other matters associated with the determination of planning applications.

3. Planning History

- 3.1. A review of the planning history for Bay Farm has been undertaken. The following applications have been identified via the Council's website, and in engagement with the planning team at the LPA relating to the application site. The Council's response to the planning history search request is attached at Appendix (i).

Application Ref: F/10/66559

- 3.2. The most recent planning permission was granted for the Change of use of land to gypsy caravan site accommodating 3no. mobile homes, 3no. touring caravans and 3 Day Rooms, on the 15 February 2012. As can be seen from the schedule of conditions attached to the permission (detailed below), this was a personal permission with Condition 2 of the permission requiring that the permitted mobile homes were not to be occupied except by Miss Janey Kempster, her partner and their children; Miss Kellie Kempster, her partner and their children; and Mrs Julie Franklyn & Mr Paul Franklyn.

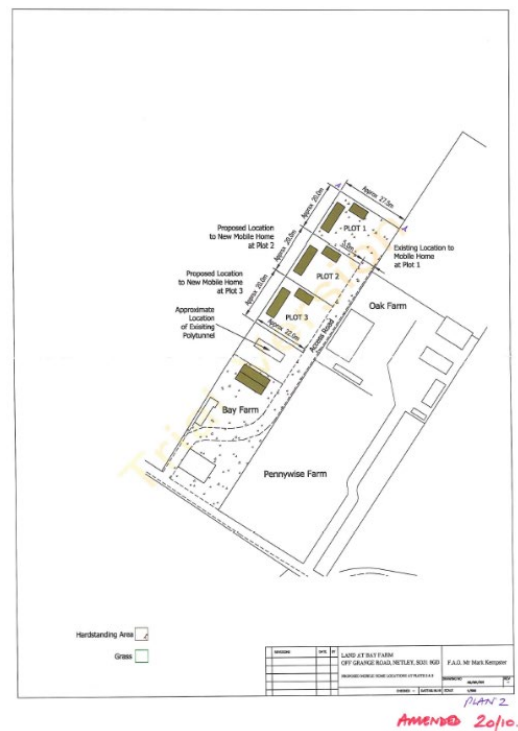


Figure 1: Extract from location plan (Plan 1) and approved layout plan (Plan 2) ref. F/10/66559

- 3.3. Permission F/10/66559 schedule of conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Plan 1, Plan 2, Plan 3, 10072.
2. The mobile homes hereby permitted shall not be occupied except by Miss Janey Kempster, her partner and their children; Miss Kellie Kempster, her partner and their children; and Mrs Julie Franklyn & Mr Paul Franklyn. Reason: The application has been approved due to the exceptional circumstances of the applicant.

3. *Within one month of the date of this permission post and rail fencing and conifer hedging between the domestic curtilage and agricultural land as indicated in between points AA on plan 2 shall be erected/planted and thereafter shall remain for the duration that the mobile homes are retained on site.*
4. *The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.*
5. *No part of the land outside the area within the red line on plan 1 shall be used for the purpose hereby approved including those ancillary thereto.*
6. *No more than three mobile homes and three caravans kept for touring shall be stationed on the land at any one time.*
7. *No open storage of goods or materials ancillary to any business activities of the occupants of the mobile home shall take place within the area defined by the red and blue line as indicated on the approved 1:1250 location plan (Plan 1).*
8. *Not more than 1 commercial vehicle not exceeding 7.5tonnes (gross weight) used in connection with the occupation of the occupiers of the mobile homes on the land and not more than one trailer shall be kept on the land within the red line at any one time. No vehicles or trailers shall be kept on the blue land to the north of the application site.*
9. *Details of the proposed treatment of the site boundaries must be submitted to and approved in writing by the Local Planning Authority and the approved measures must be implemented by a date to be agreed with the Local Planning Authority.*
10. *The boundary hedging along the northwest boundary shall be retained in its entirety at a height of no less than 3m.*

3.4. From review of the background of this application, while not detailed within the description of development, it is our understanding from discussion with the applicant that the permission was issued in retrospect, which is in some respects borne out by the wording of the conditions, largely being in the past tense and also not including a time limit for implementation. As we discuss further below and in subsequent sections of this report, although the development can be considered implemented by virtue of being retrospective (albeit in part with only two of the units being sited initially with the third unit being a later addition), the evidence set out in this report shows that, within the current LDC application site, the use that has taken place has been materially different. The use described in this permission has not taken place at any time since it was implemented. But we do consider that the permission continues to operate on land outside the current LDC application site.

3.5. With regard to this permission, it is also noted that there is conflict between the requirements of condition 2 and 4 of the permission; as whilst condition 4 requires the site shall not be occupied by any persons other than gypsies and travellers, the persons identified under condition 2 i.e. Miss Janey Kempster, her partner and their children; Miss Kellie Kempster, her partner and their children; and Mrs Julie Franklyn & Mr Paul Franklyn, who are the only permissible occupants under this condition do

not/did not themselves identify as gypsies or travellers, as defined in paragraph 15 of ODPM Circular 01/2006. This also supports the use described in the planning permission being replaced within the LDC application site by the mixed use described in this LDC application.

Application Ref: Z/35996/002/00

- 3.6. Planning permission was granted for Retention of ancillary amenity building on the 21 June 2001. This building remains on site to date and has recently been refurbished with new toilet, shower and washing facilities having been installed.
- 3.7. Conditions attached to the permission required that the building was only for domestic purposes only used in conjunction with the existing mobile home, must be used only for purposes incidental to the enjoyment of the mobile home and shall not be used for any business, commercial or industrial purposes and that the amenity building was only to remain on the site for the duration of the occupation of the mobile home, after which time it shall be removed and the land reinstated to its original state.



Figure 2: Location Plan ref. Z/35996/002/00

Application Ref: Z/35996/001/00

- 3.8. Following an enforcement notice being served on the site on the 9th April 1999, alleging a breach of planning control that without planning permission there had been a change of use of land from agriculture to part residential use by the siting of a mobile home and touring caravan (LPA Ref: 35996/1), a retrospective application for full planning permission for use of land as gypsy caravan site for one family (one twin unit mobile home) was made on the 30 April 1999.
- 3.9. The application was refused on the 21 September 1999, with 4 reasons cited including: 1. lack of agricultural or recreational justification for development in the countryside area, 2. the site was within a Strategic Gap where development is not normally permitted, 3. the site was considered not to be located within a reasonable distance of schools, medical services, shops and other facilities and 4. the development was considered to have an unacceptable impact on the character and appearance of the countryside.
- 3.10. Both the enforcement notice (Appeal ref: T/APP/W1715/C/99/1022494) and refusal of planning permission (Appeal ref: T/APP/W1715/A/99/1029872) were successfully appealed with the enforcement notice being quashed and planning permission granted for the continued use of land as gypsy caravan site for one family (one twin unit mobile home) on 07 December 1999.

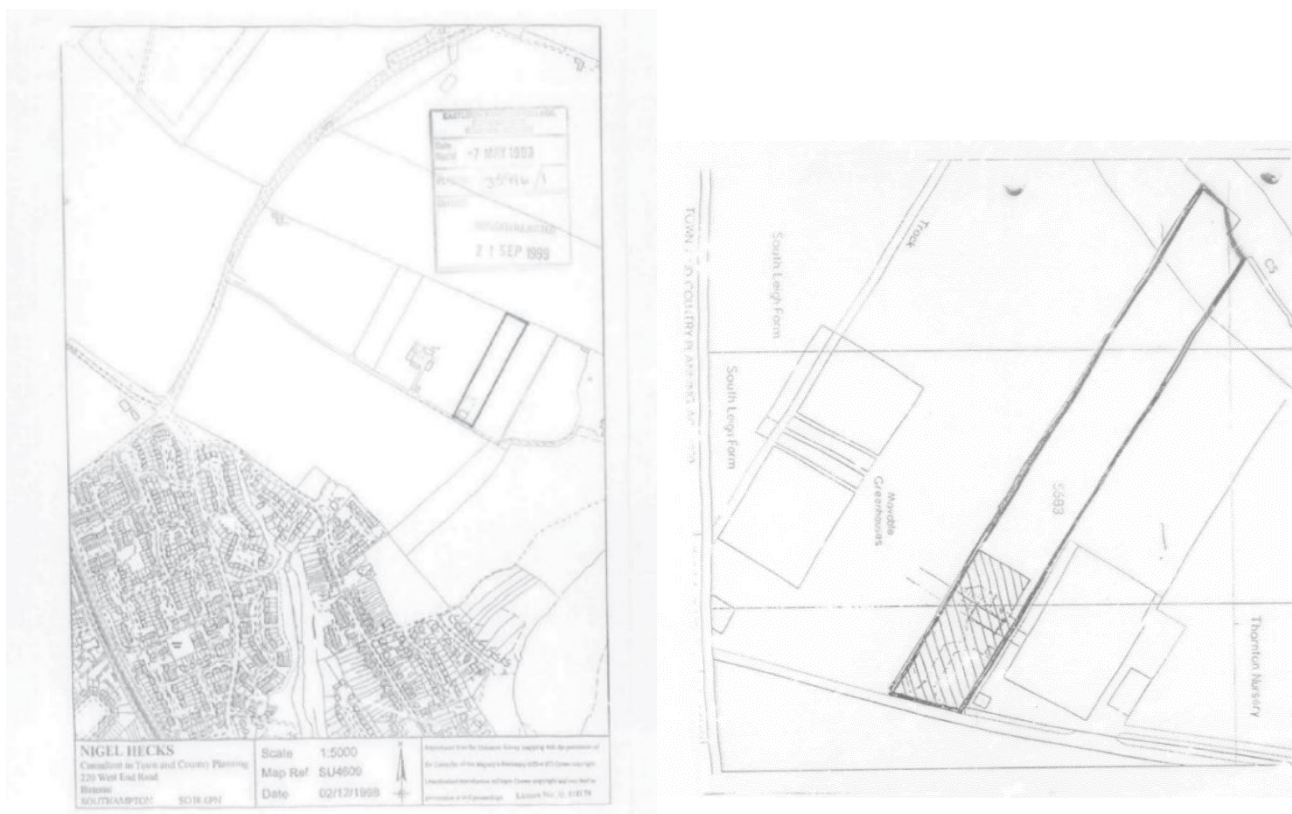


Figure 3: Location Plan and Plan No. NH14 ref. Z/35996/001/00

- 3.11. This permission relates to the applicant's own residence which sits immediately to the south-west of the application site area but includes the whole of the Bay Farm site within the application's site boundary, suggesting that consideration during the application assessed the site as being a single planning unit.

3.12. Conditions attached to the appeal permission restrict the use of the site:

- a) This permission does not authorise use of the land as a caravan site by any persons other than gypsies as defined in section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended;*
- b) No part of the land outside the area cross-hatched black on Drawing No. NH14 shall be used for the purposes hereby permitted including those ancillary thereto;*
- c) Not more than 1 mobile home used for human habitation and 1 caravan kept for use for touring shall be stationed on the land at any one time;*
- d) Not more than 2 commercial vehicles not exceeding 7.5tonnes (gross weight) used in connection with the occupation of the mobile home on the land and not more than 2 trailers shall be kept on the land at any one time;*
- e) No storage of goods or materials ancillary to the business activities of the occupants of the mobile home shall take place outside the buildings on the site.*

3.13. While again this permission was implemented, clearly the subsequent mixed use of the application site does not align nor is it in any way compatible with the permission that was granted by the Inspector.

Other Relevant History

3.14. Further applications have been made on the wider Bay Farm site and these are summarised for completeness below.

Application Ref: PN/18/84077

3.15. An application for Prior Approval under Part 3 Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) was made on 17 September 2018 for a change of use from agricultural storage to Class C3 dwelling. It was refused on the 24 October 2018, with two reasons cited, relating to a lack of evidence being submitted to support the application to demonstrate to the LPA's satisfaction that the site was used solely for an agricultural use, as part of an established agricultural unit; and further that again there was a lack of evidence submitted to confirm the status of contamination of the land, which could pose a risk to the proposed sensitive use, or how the development would be carried out without a complete reconstruction of the existing building.

3.16. Within the Officer's delegated report it is noted that in their assessment of the proposals against the criteria within Class Q, the officer states that: *'It is considered on the balance of all probability that this building is currently still being used in association with the occupants commercial interests but is not currently used for agricultural purposes and was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013'*.



Figure 4: Extract from Location Plan ref. PN/18/84077

Application Ref: F/13/71899

- 3.17. An application for full planning permission was made for Construction of single storey 3/4 bed dwelling, following demolition of existing mobile home & outbuilding was made on 19 December 2012. It was refused on the 13 February 2013, with three reasons cited, including that the proposals physically and visually diminish the Southampton - Hedge End/Bursledon/Netley strategic gap, would result in the loss of a site reserved for gypsies and further that the developer's contributions to offset the impact of the development on local infrastructure had not been secured.
- 3.18. The Decision was subject to an Appeal (Ref: APP/W1715/A/13/2194816). In issuing their decision on the appeal the Inspector upheld the views of the LPA in respect of impacts on Gypsy site provision and the strategic gap and the appeal was dismissed.

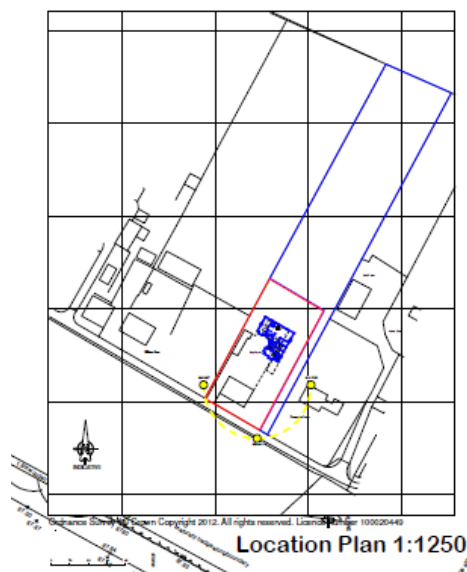


Figure 5: Extract from Location Plan ref. F/13/71899

Discussion

- 3.19. The application site for this CLEUD as shown on the accompanying plan (ref: Site Location Plan 1:1250) has been used as a mixed-use site for a significant period of time, certainly over 10 years. In terms of what constitutes the planning unit the test is not set out or established in legislature or Government guidance, and therefore the measures used to define such units have therefore been set by the courts. The most commonly referred to and used tests for determining what makes up a planning unit were laid out in *Burdle v Secretary of State for the Environment* 1972.
- 3.20. In summary, this court decision stated that the starting point for any assessment of identifying the planning unit is normally ownership or area of occupation. *Burdle* stated that there are three possible scenarios, the first being that the entire unit of occupation can be a primary use, with other uses that would be ancillary to that primary use. This would be a single planning unit. The second scenario is where there are several interrelated uses that utilise the entirety of an area of occupation. In these cases, there would be a composite use. The third scenario is where there is more than one distinct and unrelated use taking place, in which case the area of occupation can be divided into more than one separate planning unit.
- 3.21. In consideration of the 1999 permission the Bay Farm site appears to have been considered as a single planning unit; this included both the current application site and land to the south-east also in the applicant's ownership. Having regard to the case of *Burdle* and its effective working rule, it is considered that while the application site is in the same ownership/control and is physically and operationally connected with the use of Bay Farm it is a separate planning unit having a materially different use to the wider Bay Farm site and is considered to be composite/mixed use planning unit in its own right.
- 3.22. As can be seen there has been very little planning history over the preceding ten years, and nothing of significant relevance to the consideration of this CLEUD application.
- 3.23. The Planning History does not reveal anything specific, as noted above, other than the site has been granted permission for the change of use of land to a gypsy caravan site under Z/35996/001/00 in 1999, with the number of authorised units on the site being increased in 2012 with the granting of permission F/10/66559.
- 3.24. While Mr Kempster identifies himself as a gypsy, his wife (the applicant) does not, nor do his children or grandchildren that live within the application site. As will be discussed further below, none of the other persons that have lived or are living on the application site identify as gypsies. Mr Kempster resides in a static caravan outside of the application site, granted planning permission at appeal in 1999. While the permission was implemented it is clear that the use of the site and the development undertaken, in particular the area of land subject of this application, subsequent to the granting of the planning permission is not compatible with the approved permission. This permission has been replaced by the 2012 permission outside of this application site, and has been replaced by the mixed use within this application site.

- 3.25. In respect of the 2012 permission (F/10/66559) it appears that while the permission has been implemented it is evident from review of historical aerial photography (detailed within Appendix (iii) of this report), and the statutory declarations supporting this application (discussed further below) that the development that was subsequently carried out following the granting of permission at the site was significantly and demonstrably different from that as approved, to the extent that it constitutes a materially different form of development; i.e. a mixed use of the site
- 3.26. It is evident that caravans have been occupied on the site on a residential basis by non-gypsies, contrary to any approved use at the site. This would be a “residential caravan site”, not a “gypsy caravan site”. Further vehicle storage and touring caravan storage has also been taking place at the site and while an element of storage would be acceptable on an ancillary basis, the extent of the use is such that it is a primary use in its own right, and therefore part of a mixed use. None of the primary uses taking place at the site for the past 10 years (residential caravan site, storage), would be compatible with the authorised use of the site as a gypsy caravan site. The primary uses listed in the description of development for this application take place across the entire site and it is not possible to separate them into specific parts of the site. As this mixed use is a materially different use to that of a gypsy traveller site (see Winchester¹ case, which confirmed that a residential caravan site is a materially different use to a traveller site).
- 3.27. It is our view that the 2012 permission continues to operate in the blue land. In the red land a materially different land use has taken place for more than 10 years. This has replaced that part of the 2012 permission that overlaps with this application site. That ‘overlap’ land is now part of the mixed use that is described in this application. The 2012 permission would have briefly come into force in February 2012 when the retrospective permission was granted, but as the mixed use within the red line of this application continued from the moment the permission was implemented, the 2012 permission was immediately replaced within this application site.

¹ Winchester City Council v Secretary of State for Communities and Local Government [2013] EWHC 101

4. Supporting Evidence

- 4.1. In this section we set out the evidence that supports the mixed use that has taken place continuously for more than 10 years in the application site. In order to establish the lawfulness of the existing use of the land for purposes as a mixed-use residential caravan site, roofing contractor storage, caravan storage and vehicle storage, it is necessary to provide evidence, that on the balance of probability, this use has been in operation for at least 10 years.
- 4.2. The evidence submitted with this application includes five witnessed statutory declarations from persons all of whom have an intimate knowledge the application site (Appendices (iv) to (viii)) and how it has evolved over the years. Further evidence includes history aerial photography (Appendix (iii)) evidencing use of the site and further supporting statements from persons with knowledge of the site (Appendix (ix)).
- 4.3. As discussed above, a review of the planning history indicates that there have been no planning permissions on site which would have altered the planning status of the site since the granting of permission F/10/66559 in February 2012 (which, as set out in the previous section, was replaced where it overlaps with this application). There were two refusals (Ref Nos F/13/71899 and PN/18/84077) on the wider Bay Farm site (additional land in applicants ownership indicated by the blue outline on the accompanying site location plan), the earlier of which was dismissed at appeal, pertaining to historic proposals to erect residential dwellings on the site. Otherwise, there has been no other recent planning history relevant to the site.
- 4.4. When considering the evidence submitted, discussed further below, overall, the application demonstrates that the application site has been used for mixed use purposes including vehicle and caravan storage, roofing contractor storage and as a residential caravan site with ancillary amenity land and that such use has been carried out on a continuous and uninterrupted basis for over ten years. That part of the site that falls within the boundary of the 2012 permission has not been used for the purposes set out in the 2012 planning permission, as discussed in the previous section, and which we return to below.

Supporting Statutory Declarations & Statements

- 4.5. The applicant and owner of the site, Mrs Deborah Kempster, has submitted a witnessed Statutory Declaration dated 26/07/2022. This is enclosed in Appendix (iv) of this Statement.
- 4.6. Mrs Kempster is the sole owner, acquiring the site in 1989. She has lived on the Bay Farm site and operated it with her husband (Mark Kempster) for some 24 years. They live in a static caravan towards the front (south-western end) of the Bay Farm site, which was granted planning permission at appeal in 1999.
- 4.7. Mrs Kempster confirms that the land marked on the site location plan accompanying the application (Ref. Site Location Plan - 1:1250) has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage since 2009. She has also seen the historic aerial

photographs attached at Appendix (iii) and that these reflect her own recollections. This is a materially different use to that set out in the February 2012 permission and covers a larger area of land.

- 4.8. Since taking over operation of the site, the applicant has provided storage space for materials associated with Abbey roofing business, vehicles including boats, cars, motorhomes and vans. Levels of vehicle storage has gradually increased over the years. While initially storage was located immediately to the rear of the applicant's home, storage is currently predominantly located to the rear of the site, and this has been the case for the last 10 years.
- 4.9. At no time since that date has the use of the land as a caravan site, and for caravan storage and vehicle storage been stopped or abandoned, nor has the land been used for any other purpose.
- 4.10. The applicant further confirms that the grassed area of land at the rear of the site, when not in use for storage has also been used for leisure and recreation by her family and other people living on the site. The applicant also used this area for exercising dogs, being a licenced breeder of dogs (Breeders Licence attached at Appendix (x)). While the area to the rear of the site may not have always been intensively used for the storage purposes as currently seen on site, the use of the land has always been ancillary to the wider site and associated residential use and therefore forms part of the same planning unit.
- 4.11. Since 2009 caravans have been sited on the land and the site has operated under a site licence issued by Eastleigh Borough Council (ref.: 12/01494, attached at Appendix (ii)) as a "Permanent Residential Caravan Site", which is renewed annually. The licence acknowledges that the site benefits from planning permission (Planning Refs: Z/35996/001 & F/10/66559).
- 4.12. There is also caravan storage taking place at the site. The number of caravans stored on the site has fluctuated over the years, but the use has been continuous. The number of caravans stored on site varies between the summer and winter months, with more caravans being stored when out of camping season. The applicant confirms that there have been up to sixty caravans stored at the site out of camping season.
- 4.13. The application is also supported by a Statutory Declaration by the applicant's husband, Mark Kempster (attached at Appendix (v)). Mr Kempster has extensive knowledge of the site, right back to his childhood when his father leased land adjacent to the application site and reaffirms the statements made by his wife.
- 4.14. Permissions Z/35996/001/00 (1999) and F/10/66559 (2012) granted planning permission for 4no. mobile homes at the Bay Farm site across the two permissions. As discussed above the land that falls within the red line of this LDC application has been used for a materially different purpose from that approved. The mobile homes on the application site (highlighted in figure 6 below) have been continuously occupied on a residential basis for more than 10 years but have not been occupied by people identifying as gypsies.



Figure 6: Mobile homes on site

- 4.15. Mobile Home 'A' is the applicant's residence and falls outside the application site. Mobile Home 'B' is occupied by Kelly Marie Kempster, (applicant's daughter), who does not identify as a gypsy; Kelly lives with her partner and two children. Mobile Home 'C' is occupied solely by Fern Harris who purchased it from the previous occupants Mr Paul and Mrs Julia Franklin in 2014. Fern does not identify as a gypsy, nor were the Franklins gypsies. Mobile Home 'D' had until recently been occupied Lynn Brinley who sadly recently passed away, similarly Lynn did not identify as a gypsy; this unit is currently vacant.
- 4.16. The applicant confirms that they currently also have four people living on application site within touring caravans; however, there have been times when there has been 6 or 7 people living on site within caravans (excluding those within the static caravans on the application site). Statutory Declarations from three of these residents also support this application.
- 4.17. Daniel Jackman confirms in his Statutory Declaration (Appendix (vi)) that he has lived on site, as his main place of residence, for 12 years. During this time, he has known other people living on the site and that the site has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage. Daniel does not identify as a Gypsy. Daniel currently lives in a touring caravan in the centre of the site to the north east of the existing mobile homes.
- 4.18. The Statutory Declaration of Ian Andrew Hodges (Appendix (vii)) confirms that Ian has lived on site some 15 years. He confirms that has known other people living on the site and again that the site has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage. Ian does not identify himself as a Gypsy. Ian lives in a touring caravan towards the rear of the site.
- 4.19. The third resident of the site to provide a supporting Statutory Declaration, Simon Venn (Appendix (viii)), similarly confirms the nature of the use of the site as being

that of a mixed use, and that he has witnessed such to be continuous since he has been living on the site. Simon has lived on the site since he was 17, some 16 years, and during this time the caravan that he has lived in has moved to different locations within the site; initially towards the south-western end of the site to its current location at the rear of the site. Again, Simon does not identify as being a gypsy or person having a nomadic lifestyle. Simon similarly lives in a touring caravan towards the rear of the site.

- 4.20. Sadly, one resident, Stuart Hopkins, passed away from COVID in March 2022. He had previously lived on the site for some 11 years and was known to the other residents at the site, as confirmed in their respective Statutory Declarations.
- 4.21. While the statutory declarations describe the site as being used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage, which is factually correct, having viewed the site and having regard to the uses evident, our professional opinion is that the mixed use should also encompass use of the site for purposes as storage for a roofing contractors business, this being a materially different planning use from that described in the Statutory Declarations, but also being more than an ancillary use.
- 4.22. Statements have also been made by Philip Cullin of Abbey Asphalt Roofing Ltd (Appendix (ix)a) and Kim Lewis a local taxi driver (Appendix (ix)b).
- 4.23. Philip confirms that Abbey Asphalt Roofing Ltd was founded in 2009 and since that date their yard has been at the rear of Bay Farm. This further supports our view with regards to the need for such a commercial storage use associated with the roofing business to be included within the description of development. Philip further notes that during the time that he has known the site that there has always been people living in caravans at the site.
- 4.24. Storage associated with Abbey Roofing initially was located to the rear of the applicant's mobile home but has relocated within the site over the subsequent years. Currently roofing materials can be seen located in the centre and towards the rear of the site.
- 4.25. Kim confirms that for over 15 years she regularly visited the site in her role as a taxi driver, picking up the Kempsters for nights out, airport runs etc. She also confirms that over this period to present day she has also picked up others that occupy caravans on the site and drop off or pickup to take them back to their caravans.

Historic Aerial Imagery

- 4.26. Google Maps aerial photographs (publicly available) dating from 2012, 2013, 2014, 2015, 2017, 2018, 2019, 2020, 2021 and 2022 provide visual evidence of the use of the site for residential caravans and storage of vehicles and caravan uses and how this has continued to the present day, with clear fluctuations, but no changes in use.
- 4.27. 2012 – Site contains two mobile homes with a day room and an amenity building evident. Several touring caravans and motorhomes can be seen, with a number of further vehicles also evident. There is open storage of materials associated with the roofing business and polytunnel used for storage in the eastern corner of the site. The north-eastern half of the site is retained as amenity land.

- 4.28. 2013 – No significant change in the context or appearance of the site since 2012
- 4.29. 2014 – Again, no significant change in the context or appearance of the site since 2012 or 2013. This clearer image shows a number of caravans and vehicles (including motorhomes and a boat) present within the site.
- 4.30. 2015 – This image shows similar usage of the site, but it is noticeable that the area hardstanding has been expanded to the north of the amenity building and a touring caravan stationed in this land. Despite the hardstanding, the mix of uses seems to remain the same.
- 4.31. 2017 – Polytunnel removed from site. Open storage relocated from the eastern corner of the site to north of the amenity building along the eastern boundary of the site. Partial removal of hedgerow and additional mobile home introduced to the eastern corner of the site with associated hardstanding. Area of hardstanding expanded northwards. Touring caravan stationed adjacent north of the relocated open storage. Again, the mix of uses within the planning unit seem to remain the same.
- 4.32. 2018 – Mobile home in the eastern corner of the site replaced and boundary fencing introduced. Area of hardstanding expanded northwards.
- 4.33. 2019 – Significant expansion of hardstanding into the previous amenity land area. Increase in the number of vehicles (including boats) and touring caravans stationed in the northern half of the site, but overall mix of uses appears to stay the same.
- 4.34. 2020 – Further expansion of vehicle and caravan storage in the north eastern corner of the site, with the mix of uses remaining the same.
- 4.35. 2021 – Hardstanding introduced to much of the northern half of the site. Increased number of cars and vans evident to the north of existing mobile home. Further additional vehicles and caravans sited along the northern and north-western boundaries of the site. Overall mix of uses in the planning unit seems to remain the same.
- 4.36. 2022 – No significant change in the context of the site with use and appearance of the site largely remaining as above.

5. Conclusions

- 5.1. An application for a Lawful Development Certificate has been submitted for the confirmation that the existing use of the land is for a mixed-use residential caravan site, roofing contractor storage, caravan storage and vehicle storage. The site is in single ownership albeit with mixed uses taking place on site.
- 5.2. While there have been separate permissions across the site the application site is a single planning unit and, from the evidence available, has never been used in accordance with the planning permissions. The evidence suggests that the site is not a gypsy caravan site, but a mixed-use site comprising of residential caravan site, roofing contractor storage, caravan storage and vehicle storage.
- 5.3. The southern part of the Bay Farm site (outside the application boundary) appears to be used in accordance with the 1999/2012 planning permissions, but the application site (which incorporates part of the 2012 permission boundary) has been used as a mixed use, residential caravan site, roofing contractor storage, caravan storage and vehicle storage for more than 10 years. **That mixed use is materially different to a gypsy caravan site.**
- 5.4. The relevant test is whether, on the balance of probabilities, that the evidence submitted by the applicant is sufficient to demonstrate that the use existed for a continuous period of 10 years.
- 5.5. There are five statutory declarations, one from the owner, who is the applicant, with a long knowledge of the site, regarding the length of time that caravans and vehicles have been stored on the land. There is further documentary evidence to support the existence of the caravans and vehicles being stored on site, via Google Maps aerial photography.
- 5.6. The evidence above indicates that the site has clearly been used for mixed use purposes for at the very least over the preceding ten years, and while the use has intensified the nature of the use has not changed or ceased at any point in time.
- 5.7. Aerial photography demonstrates that no other activity has taken place on the site. And this reflects the applicant's, her partner's and persons living on site recollection of the use of the site.
- 5.8. While not in accordance with previous permissions, the site has clearly been occupied for residential purposes for in excess of ten years as confirmed by the statutory declarations supporting the application, further by the aerial photography.
- 5.9. It has been confirmed that none of the people living within either the static caravans or the touring caravans on the application site identify as being Gypsies or persons having a nomadic lifestyle. Further that the mobile home units are not sited in accordance with the approved layout of F/10/66559 for use as a gypsy caravan site, and that the units have not been occupied by persons identifying as gypsies as required by condition 4 or being those persons as identified by condition 2 of the permission.

- 5.10. There is no evidence of any other use being lawfully established on the site, according to planning history or aerial photographs or that the mixed use has ever been discontinued or abandoned.
- 5.11. As such, it is concluded that the application should be approved, and a lawful development certificate is issued under Section 191 of the Town and Country Planning Act 1990 for the existing use of the site for the stationing of two caravans.

6. Appendices

**Appendix (i) – Eastleigh BC Planning History Response
05/04/2022**



Dear Mr Neville
Laister Planning Limited

Application Z/35996/001/00
Please ask for Planning
Direct dial 023 8068 8000
Working hours
Email Planning@eastleigh.gov.uk

Via E-Mail

Tuesday 5 April 2022

Dear Sir/Madam

**Town and Country Planning Act 1990
The Town and Country Planning (Development Management Procedure)
(England) Order 2015**

Application No: Z/35996/001/00 and Z35996/002/00
Description: Site History
Site: Land Nw Of Pennywise Nursery And Se Grange Road, Netley
Abbey Hants,

Bay Farm

Z/35996/001/00 RETROSPECTIVE APPLICATION FOR USE OF LAND AS GYPSY CARAVAN SITE FOR ONE FAMILY (ONE TWIN UNIT MOBILE HOME) Refusal Planning Permission 21.09.1999

Z/35996/002/00 RETENTION OF ANCILLARY AMENITY BUILDING Permit 21.06.2001

F/10/66559 Change of use of land to gypsy caravan site accommodating 3no. mobile homes, 3no. touring caravans and 3 day rooms Permit 15.02.2012

F/13/71899 Construction of single storey 3/4 bed dwelling, following demolition of existing mobile home and outbuilding Refuse Planning Permission 13.02.2013 Appeal Dismissed

PN/18/84077 Prior Notification of change of use from agricultural storage to Class C3 dwelling Prior Approval Refused 24.10.2018

Oak Farm

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN
T: 023 8068 8000 E: direct@eastleigh.gov.uk W: www.eastleigh.gov.uk



Z/28795/000/00 OUTLINE: ERECTION OF AGRICULTURAL WORKERS DWELLING REFUSE PLANNING PERMISSION 02.06.1986

Z/28795/002/00 RETENTION OF AGRICULTURAL WORKERS MOBILE HOME Temporarily Approve 08.06.1990

Z/28795/004/00 RETENTION OF AGRICULTURAL WORKERS MOBILE HOME REFUSE PLANNING PERMISSION Allowed at Appeal

Z/28795/006/00 SITING OF 4NO.POLY TUNNELS Permit 15.091993

Z/28795/007/00 CONSTRUCTION OF AGRICULTURAL WORKERS DWELLING AND GARAGE TO REPLACE EXISTING MOBILE HOME Refuse Planning Permission 03.06.1997

Z/28795/008/00 TEMPORARY SITING OF MOBILE HOME REFUSE PLANNING PERMISSION 18.11.1997

Z/28795/009/00 CONSTRUCTION OF THREE AGRICULTURAL BUILDINGS WITHDRAWN (RET'D UNDETERMINED) 24.02.2004

Z/28795/010/00 CERTIFICATE OF LAWFULNESS FOR EXISTING USE OF SITE FOR ONE DWELLING (MOBILE HOME) CLUED - Certificate Issued 14.01.2000

Z/28795/011/00 CONSTRUCTION OF BUNGALOW TO REPLACE EXISTING RESIDENTIAL CARAVAN Permit 04.02.2002

F/08/62837 Change of Use of land to long stay caravan site for 3no. Caravans and ancillary hardstanding and day room Permit 24.02.2009

Yours faithfully

A handwritten signature in black ink, appearing to read "Andy Grandfield", written in a cursive style.

Andy Grandfield
Executive Head for Planning and Economy

Appendix (ii) – Bay Farm – Caravan Site Licence Ref: 12/01494



Reference Number: 12/01494

CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT, 1960 – SECTION 3

CARAVAN SITE LICENCE

To: Mr Mark Kempster

WHEREAS on the 12 July 2012 you made an application for a site licence in respect of land situate at BAY FARM, GRANGE ROAD, NETLEY ABBEY, SOUTHAMPTON, SO31 8GD

(hereinafter called "the said land")

AND WHEREAS you are entitled to the benefit of permission (Planning Refs: Z/35996/001 & F/10/66559) for the use of the said land as a caravan site granted under Part III of the Town and Country Planning Act 1990, otherwise than by a development order.

NOW THEREFORE the Eastleigh Borough Council

HEREBY GRANT a site licence in respect of the said land pursuant to Section 3 of the Caravan Sites and Control of Development Act 1960, subject to the attached conditions

THIS LICENCE IS IN EFFECT FROM:
13/09/2012

Signed
Head of Housing and Environmental Health

Date Issued: 13/09/2012

Please refer to the attached notes and conditions that apply to this licence.

NOTES TO CARAVAN SITE LICENCE

Part 1 of The Caravan Sites and Control of Development Act 1960, provides, *inter alia*, as follows:-

Section 1

(4) In this Part of this Act the expression "caravan site" means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

Section 5

(3) A site licence issued in respect of any land shall, unless it is issued subject to a condition restricting to three or less the total number of caravans which may be stationed on the land at any one time, contain an express condition that, at all times when caravans are stationed on the land for the purposes of human habitation, a copy of the licence as for the time being in force shall be displayed on the land in some conspicuous place.

(4) A condition attached to a site licence may, if it requires the carrying out of any works on the land in respect of which the licence is issued, prohibit or restrict the bringing of caravans on to the land for the purposes of human habitation until such time as the local authority have certified in writing that the works have been completed to their satisfaction; and where the land to which the site licence relates is at the time in use as a caravan site, the condition may, whether or not it contains any such prohibition or restriction as aforesaid, require the works to be completed to the satisfaction of the authority within a stated period.

(5) For the avoidance of doubt, it is hereby declared that a condition attached to a site licence shall be valid notwithstanding that it can be complied with only by the carrying out of works which the holder of the site licence is not entitled to carry out as of right.

(6) The Minister may from time to time specify for the purposes of this section model standards with respect to the lay-out of, and the provision of facilities, services and equipment for, caravan sites or particular types of caravan site; and in deciding what (if any) conditions to attach to a site licence, a local authority shall have regard to any standards so specified.

Section 7

(1) Any person aggrieved by an condition (other than the condition referred to in subsection (3) of section five of this Act) subject to which a site licence has been issued to him in respect of any land may, within twenty-eight days of the date on which the licence was so issued, appeal to a magistrates' court acting for the petty sessions area in which the land is situated; and if the court is satisfied (having regard amongst other things to any standards which may have been specified by the Minister under subsection (6) of the said section five) that the condition is unduly burdensome, may vary or cancel the condition.

(2) In so far as the effect of a condition (in whatever words expressed) subject to which a site licence is issued in respect of any land is to require the carrying out on the land of any works, the condition shall not have effect during the period within which the person to whom the site licence is issued is entitled by virtue of the foregoing subsection to appeal against the condition nor, thereafter, whilst an appeal against the condition is pending.

Section 8

(1) The conditions attached to a site licence may be altered at any time (whether by the variation or cancellation of existing conditions, or by the addition of new conditions, or by a combination of any such methods) by the local authority; but before exercising their powers under this subsection the local authority shall afford to the holder of the licence an opportunity of making representations.

(2) Where the holder of a site licence is aggrieved by any alteration of the conditions attached thereto or by the refusal of the local authority of an application by him for the alteration of those conditions, he may, within twenty-eight days of the date on which written notification of the alteration or refusal is received by him, appeal to a magistrates' court acting for the petty sessions area in which the land to which the site licence relates is situated; and the court may, if they allow the appeal, give to the local authority such directions as may be necessary to give effect to their decision.

(3) The alteration by a local authority of the conditions attached to any site licence shall not have effect until written notification thereof has been received by the holder of the licence, and in so far as any such alteration imposes a requirement on the holder of the licence to carry out on the land to which the licence relates any works which he would not otherwise be required to carry out, the alteration shall not have effect during the period within which the said holder is entitled by virtue of the last foregoing subsection to appeal against the alteration nor, thereafter, whilst an appeal against the alteration is pending.

Section 9

(1) If an occupier of land fails to comply with any condition for the time being attached to a site licence held by him in respect of the land, he shall be guilty of an offence and liable on summary conviction, in the case of the first offence to a fine not exceeding one hundred pounds, and, in the case of a second or subsequent offence, to a fine not exceeding two hundred and fifty pounds.

(3) Where an occupier of land falls within the time specified in a condition attached to a site licence held by him to complete to the satisfaction of the local authority in whose area the land is situated any works required by the condition to be so completed, the local authority may carry out those works, and may recover as a simple contract debt in any court of competent jurisdiction from that person any expenses reasonably incurred by them in that behalf.

Section 10

(1) When the holder of a site licence in respect of any land ceases to be the occupier of the land, he may, with the consent of the local authority in whose area the land is situated, transfer the licence to the person who then becomes the occupier of the land.

(2) Where a local authority give their consent to the transfer of a site licence, they shall endorse on the licence the name of the person to whom it is to be transferred and the date agreed between the parties to the transfer as the date on which that person is, for the purposes of this Part of this Act, to be treated as having become the holder of the licence.

Section 11

(1) A local authority who have issued a site licence may at any time require the holder to deliver it up so as to enable them to enter in it any alteration of the conditions or other terms of the licence made in pursuance of the provisions of this Part of this Act.

(2) If the holder of a site licence fails without reasonable excuse to comply with a requirement duly made under this section he shall be liable on summary conviction to a fine not exceeding ten pounds.

Section 29

(1) In this Part of this Act, unless the context otherwise requires:-

"caravan" means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:-

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system or;
- (b) any tent



SITE LICENCE CONDITIONS

For Licence No. 12/01494

Permanent Residential Caravan Site

The following conditions have been based on those provided in the 2008 Model Standards under the Caravan Sites & Control of Development Act 1960. They are in respect of the site licence referenced above and for the site being operated solely for the use of permanent residential caravans.

1.0 Boundaries and Plan of the Site

- 1.1 The boundaries of the site from any adjoining land shall be clearly marked by a man made or natural feature.
- 1.2 No caravan or combustible structure shall be positioned within 3 metres of the boundary of the site.
- 1.3 a) A plan of the site shall be supplied to the local authority upon the application for a licence and, thereafter whenever there is a material change to the boundaries or layout of the site, or at any other time on the demand of the local authority.
b) The plan supplied must clearly illustrate the layout of the site including all relevant structures, features and facilities on it and shall be of suitable quality.

2.0 Density, Spacing and Parking Between Caravans

- 2.1 The total number of caravans on the permanent residential site shall not exceed 4 residential caravans and space for parking 4 touring caravans.
- 2.2 Except in the cases mentioned in sub-paragraph 2.4 and subject to sub-paragraph 2.5, every caravan must where practicable be spaced at a distance of no less than 6 metres (the separation distance) from any other caravan which is occupied as a separate residence.
- 2.3 No caravan shall be stationed within 2 metres of any road or communal car park within the site or more than 50 metres from such a road within the site.
- 2.4 Where a caravan has retrospectively been fitted with cladding from Class 1 fire rated materials to its facing walls, then the separation distance between it and an adjacent caravan may be reduced to a minimum of 5.25 metres.
- 2.5 In any case mentioned in sub-paragraphs 2.2 and 2.4:
 - 2.5.1 A porch attached to the caravan may protrude one metre into the separation distance and must not exceed 2 metres in length and 1 metre in depth. The porch must not exceed the height of the caravan. Where a porch is installed only one door may be permitted at that entrance to the home, either on the porch or on the home.
 - 2.5.2 Eaves, drainpipes and bay windows may extend into the separation distance provided the total distance between the extremities of two facing caravans is not less than 5 metres, except where sub-paragraph 2.4 applies in which case the distance shall not be less than 4.25 metres.



SITE LICENCE CONDITIONS

For Licence No. 12/01494

- 2.5.3 Any structure including steps, ramps, etc (except garage or car port), which extends more than 1 metre into the separation distance shall be of non-combustible construction. There should be a clear 4.5 metre clear distance between any such structure and any adjacent caravan.
- 2.5.4 A garage or car port may only be permitted within the separation distance if it is of non-combustible construction (planning permission may be required to be obtained).
- 2.5.5 A shed or covered storage space must not be less than 4.5 metres from any other caravan unless:
- a) The structure is partially constructed of combustible materials, being clad externally with incombustible materials when the distance from any other caravan shall be not less than 3 metres.
 - b) The structure is wholly constructed of incombustible materials when the distance from any other caravan shall be not less than 1.5 metres.
- 2.5.6 The space beneath caravans must not be used for storage.
- 2.5.7 Windows in structures within in the separation distance shall not face towards the caravan on either side.
- 2.5.8 Fences and hedges, where allowed and forming the boundary between adjacent caravans, should be a maximum of 1.8 metres high.
- 2.5.9 Private cars may be parked within the separation distance provided that they do not obstruct entrances to caravans or access around them and they are a minimum of 3 metres from an adjacent caravan.

3.0 Types of Caravans

- 3.1 No caravan shall be stationed on the site unless it:
- a) Is of proprietary or purpose built type. (In respect of this condition regard may be taken of any relevant British Standard for residential caravans).
 - b) Is maintained in good repair consistent with (a).
 - c) Is provided with adequate means of permanent ventilation.
 - d) Has windows of sufficient area to give a satisfactory standard of natural lighting.
 - e) Is maintained in such a condition as to be capable of mobility and transportation.
- 3.2 No caravan stationed on the site shall be used for sleeping accommodation by a greater number of persons at any one time than the number it can reasonably be regarded as having been designed to accommodate. (In respect of this condition regard may be taken of any relevant British Standard for residential caravans).
- 3.3 No more than the number of touring caravans specified in sub-paragraph 2.1 shall be stored anywhere on the site without the necessary planning permissions and must be positioned a minimum of 6 metres from any residential caravan.



SITE LICENCE CONDITIONS

For Licence No. 12/01494

4.0 Roads, Gateways and Overhead Cables

- 4.1 Roads shall be designed to provide adequate access for emergency vehicles and routes within the site for such vehicles must be kept clear of obstructions at all times.
- 4.2 New roads shall be constructed and laid of suitable bitumen macadam or concrete with a suitable compacted base.
- 4.3 All roads shall have adequate surface water/storm drainage.
- 4.4 New two-way roads shall not be less than 3.7 metres wide, or if they are designed for and used by one-way traffic, not less than 3 metres wide.
- 4.5 One-way systems shall be clearly sign posted.
- 4.6 Where existing two-way roads are not 3.7 metres wide, passing places shall be provided where practical.
- 4.7 Vehicular access and all gateways to the site must be a minimum of 3.1 metres wide and have a minimum height clearance of 3.7 metres.
- 4.8 Roads shall be maintained in good condition.
- 4.9 Cables overhangs must meet the statutory requirements.
- 4.10 Roads shall not be crossed by any overhead cables at less than 4.5 metres above the ground.
- 4.11 If there are overhead electric lines on the site, suitable warning notices must be displayed at the entrance to the site and on supports for the line. Where appropriate, particular attention shall be drawn to the danger of masts of yachts or dinghies contacting the line.

5.0 Footpaths and Pavements

- 5.1 Every caravan shall be connected to a road by a footpath with a hard surface which shall be maintained in good condition.
- 5.2 Where practicable, communal footpaths and pavements shall not be less than 0.9 metres wide.

6.0 Bases

- 6.1 Every unit must stand on a concrete base or hard - standing.



SITE LICENCE CONDITIONS

For Licence No. 12/01494

6.2 The base must extend over the whole area occupied by the unit, and must project a sufficient distance outwards from its entrances to enable occupants to enter and leave safely. The hard standing must be constructed to the industry guidance current at the time of siting, taking into account local conditions.

7.0 Supply and Storage of Gas etc.

7.1 Gas (including natural gas) and oil installations, and the storage of supplies shall meet current statutory requirements and relevant Standards of Codes of Practice.

7.2 Liquefied Petroleum Gas cylinders must not be positioned or secured in such a way as to impede access or removal in the event of an emergency.

8.0 Electrical Installations

8.1 On the site there shall be install an electricity network of adequate capacity to meet safely all reasonable demands of the caravans and other facilities and services within it.

8.2 The electrical network installations shall be subject to regulation under the current relevant legislation and must be designed, installed, tested, inspected and maintained in accordance with the provisions of the current relevant statutory requirements.

8.3 Any work on electrical installations and appliances shall be carried out only by persons who are competent to do the particular type of work being undertaken, in accordance with current relevant statutory requirements.

8.4 Any work on the electrical network within the site shall be done by a competent person fully conversant with the appropriate statutory requirements.

9.0 Water Supply

9.1 All pitches on the site shall be provided with a water supply sufficient in all respects to meet all reasonable demands of the caravans situated on them.

9.2 All new water supplies shall be in accordance with all current legislation, regulations and relevant British or European Standards.

9.3 All repairs and improvements to water supplies and installations shall be carried out to conform with current legislation and British or European Standards.

9.4 Work on water supplies and installations shall be carried out only persons who are qualified in the particular type of work being undertaken and in accordance with current legislation and British or European Standards.



SITE LICENCE CONDITIONS

For Licence No. 12/01494

10.0 Drainage and Sanitation

- 10.1 Surface water drainage shall be provided where appropriate to avoid standing pools of water.
- 10.2 There shall be satisfactory provision for foul and waste water drainage either by connection to a public sewer or sewage treatment works or by discharge to a properly constructed septic tank or cesspool approved by the local authority.
- 10.3 All drainage and sanitation provision shall be in accordance with current legislation and British or European Standards.
- 10.4 Work on drains and sewers shall be carried out only by persons who are qualified in the particular type of work being undertaken and in accordance with current legislation and British or European Standards.

11.0 Domestic Refuse Storage & Disposal

- 11.1 All refuse disposal shall be in accordance with all current legislation and regulations.

12.0 Notices and Information

- 12.1 The name of the site shall be displayed on a sign in a prominent position at the entrances to the site together with the current name, address and telephone number of the licence holder and manager and emergency contact details, a copy of the site licence or the front page of said licence and details of where the full licence and other information required to be available under this standard can be viewed and between which times (if not displayed on the notice board).
- 12.2 A current plan of the site with roads and pitches marked on it shall be prominently displayed at entrances.
- 12.3 A copy of the current site licence shall be available for inspection in a prominent place on site.
- 12.4 In addition at the prominent place the following information shall also be available for inspection:
 - a) A copy of the most recent periodical electrical inspection report.
 - b) A copy of the site owner's certificate of public liability insurance.
 - c) A copy of the local flood warning system and evacuation procedures, if appropriate.
 - d) A copy of the fire risk assessment made for the site.
- 12.5 All notices shall be suitably protected from the weather and direct sunlight.



SITE LICENCE CONDITIONS

For Licence No. 12/01494

13.0 Flooding

- 13.1 The site owner shall establish whether the site is at risk from flooding by referring to the Environment Agency's flood map.
- 13.2 Where there is risk from flooding the site owner shall consult the Environment Agency for advice on the likelihood of flooding, the depths and velocities that might be expected, the availability of a warning service and what appropriate measures to take.

14.0 Requirement to Comply with the Regulatory Reform (Fire Safety) Order 2005

- 14.1 The site owner shall make available the latest version of the fire risk assessment carried out under the Regulatory Reform (Fire Safety) Order 2005 for inspection by residents and when demanded, a copy of the risk assessment shall be made available to the local authority.

Appendix (iii) – Historic Aerial Photography



Application Site: Image dated 02/04/2012
Image source: Google Maps (N.T.S.)

Site contains two mobile homes with a day room and an amenity building evident. Several touring caravans and motorhomes can be seen, with a number of further vehicles also evident. There is open storage of materials associated with the roofing business and polytunnel used for storage in the eastern corner of the site. The north-eastern half of the site is retained as amenity land.



Application Site: Image dated 03/06/2013
Image source: Getmapping (N.T.S.)

No significant change in the context or appearance of the site since 2012



Application Site: Image dated 15/04/2014
Image source: Google Maps (N.T.S.)

Again, no significant change in the context or appearance of the site since 2012 or 2013



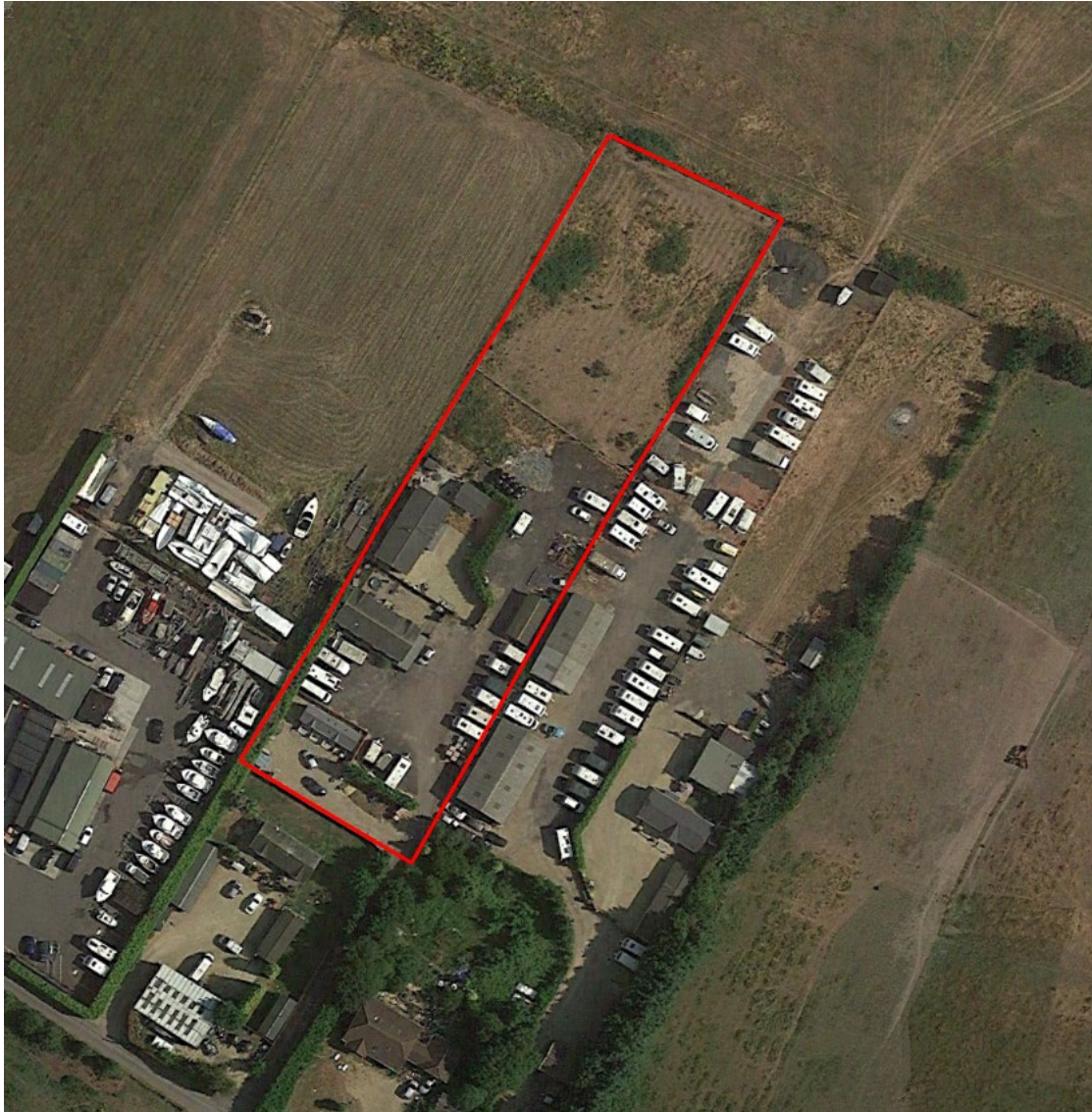
Application Site: Image dated 22/04/2015
Image source: Google Maps (N.T.S.)

This year's image shows similar usage of the site, but it is noticeable that the area hardstanding has been expanded to the north of the amenity building and a touring caravan stationed in this land. Despite the hardstanding the use seems to remain the same.



Application Site: Image dated 21/06/2017
Image source: Bluesky Ltd (N.T.S.)

Polytunnel removed from site. Open storage relocated from the eastern corner of the site to north of the amenity building along the eastern boundary of the site. Partial removal of hedgerow and additional mobile home introduced to the eastern corner of the site with associated hardstanding. Area of hardstanding expanded northwards. Touring caravan stationed adjacent north of the relocated open storage. Again, the mix of uses within the planning unit seem to remain the same.



Application Site: Image dated 06/07/2018
Image source: Google Maps (N.T.S.)

Mobile home in the eastern corner of the site replaced and boundary fencing introduced. Area of hardstanding expanded northwards.



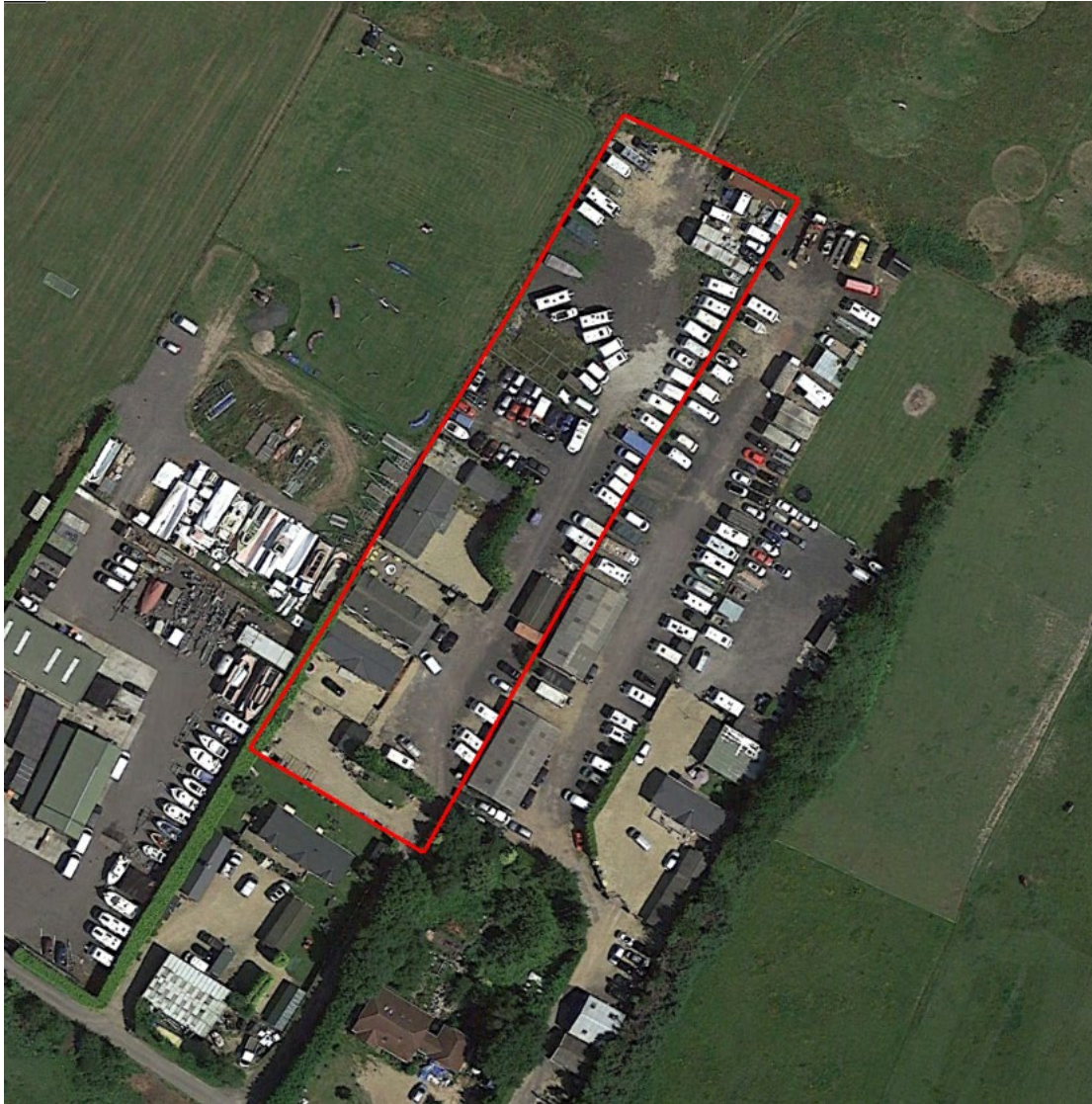
Application Site: Image dated 15/09/2019
Image source: Google Maps (N.T.S.)

Significant expansion of hardstanding into the previous amenity land area. Increase in the number of vehicles (including boats) and touring caravans stationed in the northern half of the site, but overall the mix of uses appears to stay the same.



Application Site: Image dated 26/05/2020
Image source: Google Maps (N.T.S.)

Further expansion of vehicle and caravan storage in the north eastern corner of the site evident from previous years, with the mix of uses remaining the same.



Application Site: Image dated 18/07/2021
Image source: Google Maps (N.T.S.)

Hardstanding introduced to much of the northern half of the site. Increased number of cars and vans evident to the north of existing mobile home. Further additional vehicles and caravans sited along the northern and north-western boundaries of the site. Overall mix of uses in the planning unit seems to remain the same.



Application Site: Image dated 2022
Image source: Google Maps (N.T.S.)

No significant change in the context of the site with use and appearance of the site largely remaining as in the previous year, albeit with a slight intensification of vehicle storage to the rear of the site.

Appendix (iv) – Statutory Declaration – Mrs Deborah Kempster

Statutory Declaration

**In support of application for Certificate of Lawfulness of Existing Use or Development under
Section 191 of the Town and Country Planning Act 1990 (as amended)**

for

**confirmation of the use of the site continuously for a mixed-use comprising of residential caravan
site, caravan storage and vehicle storage**

at

Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD

I, Deborah Kempster of Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD solemnly
and sincerely make this Statutory Declaration. I declare as follows:

1. I am the sole owner of Bay Farm, Grange Road, Bursledon, Southampton, Hants, SO31 8GD. I have owned the site since 1989 and I have lived on the site and operated it with my husband (Mark Kempster) for some 24 years. We live in a static caravan towards the front (south-western end) of the site, which was granted planning permission at appeal in 1999.
2. The land marked on the attached plan (Ref. Site Location Plan - 1:1250) has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage since 2009. The grassed area of land at the rear of the site, when not in use for storage has also been used for leisure and recreation by my family and other people living on the site. I have also used this area for exercising dogs.
3. Since 2009 caravans have been sited on the land. We operate the site under a site licence issued by Eastleigh Borough Council which is renewed annually. The number of caravans stored on the site has fluctuated over the years, but the use has been continuous. The number of caravans stored on site varies between the summer and winter months, with more caravans being stored when out of camping season. There have been up to sixty caravans stored at the site out of camping season.

4. In February 2012 we were granted planning permission for 3no. mobile homes. These mobile homes have been continuously occupied on a residential basis for more than 10 years.
5. We currently have four people living on site; however, there have been times when there has been 6 or 7 people living on site within caravans. Sadly, one resident, Stuart Hopkins, passed away from COVID in March. He had previously lived on the site for some 11 years. None of the people living on the site identify as being Gypsies.
6. Since purchasing the site in 1989, we have provided storage space for vehicles including boats, cars and vans. Levels of vehicle storage has gradually increased over the years. While initially storage was located immediately to the rear of our home, storage is currently predominantly located to the rear of the site, and this has been the case for the last 10 years.
7. At no time since that date has the use of the land as a caravan site, and for caravan storage and vehicle storage been stopped or abandoned, nor has the land been used for any other purpose.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Signature

DECLARED at

This 26

Before me,

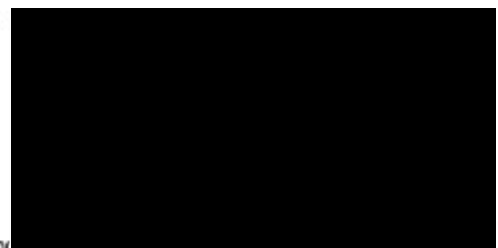
A Commissioner for Oaths/Solicitor

Site Location Plan



0 50
Metres

Plan Produced for: Bay Farm
Date Produced: 24 Feb 2022
Plan Reference Number / Project ID: TQRQM2205513330
Scale: 1:1250 @ A4



Appendix (v) – Statutory Declaration – Mr Mark Kempster

Statutory Declaration

**In support of application for Certificate of Lawfulness of Existing Use or Development under
Section 191 of the Town and Country Planning Act 1990 (as amended)**

for

**confirmation of the use of the site continuously for a mixed-use comprising of residential caravan
site, caravan storage and vehicle storage**

at

Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD

I, Mark Kempster of Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD solemnly
and sincerely make this Statutory Declaration. I declare as follows:

1. My wife (Deborah Kempster) is the sole owner of Bay Farm, Grange Road, Bursledon, Southampton, Hants, SO31 8GD.
2. I have lived on the site and operated it with my wife for some 24 years, living in a static caravan towards the front (south-western end) of the site, which was granted planning permission at appeal in 1999.
3. I've known the site since my childhood with my dad leasing adjacent land for some 50 years.
4. The land marked on the attached plan (Ref. Site Location Plan - 1:1250) has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage since 2009. The grassed area of land at the rear of the site, when not in use for storage has also been used for leisure and recreation associated with this use, including dog exercising, by my family and other people living on the site.
5. Since 2009 caravans have been sited on the land. We operate the site under a site licence issued by Eastleigh Borough Council which is renewed annually. The number of caravans stored on the site has fluctuated over the years. The number of caravans stored on site varies between the summer and winter months, with more caravans being stored when out

of camping season. There have been up to sixty caravans stored at the site out of camping season.

6. In February 2012 we were granted planning permission for 3no. mobile homes these mobile homes have been continuously occupied on a residential basis for more than 10 years.
7. We currently have four people currently living on site, however, there have been times when there has been 6 or 7 people living on site within caravans. Sadly, one resident, Stuart Hopkins, passed away from COVID in March, he had previously lived on the site for some 11 years. None of the people living on the site identify as being Gypsies.
8. Since we purchased the site in 1989, we have provided storage space for vehicles including boats, cars and vans. Levels of vehicle storage has gradually increased over the years. While initially storage was located immediately to the rear of our home, storage is currently predominantly located to the rear of the site.
9. At no time since that date has the use of the land as a caravan site, and for caravan storage and vehicle storage been stopped or abandoned, nor has the land been used for any other purpose.

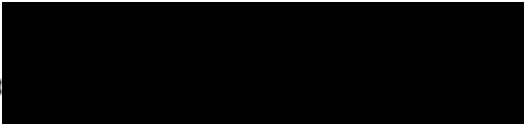
I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Signed

DECLARED at

This

Before me,


A Commissioner for Oaths/Solicitor

Park Gate, Hampshire

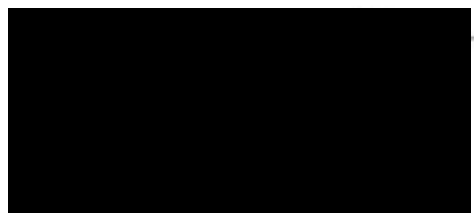
Michael Devall
Placidi & Co
27 Middle Road
Park Gate
Southampton
SO31 7GH

Site Location Plan



0 50
Metres

Plan Produced for: Bay Farm
Date Produced: 24 Feb 2022
Plan Reference Number / Project ID: TQRQM22055133300923 / LPL1135
Scale: 1:1250 @ A4



Appendix (vi) – Statutory Declaration – Mr Daniel Jackman

Statutory Declaration

**In support of application for Certificate of Lawfulness of Existing Use or Development under
Section 191 of the Town and Country Planning Act 1990 (as amended)**

for

**confirmation of the use of the site continuously for a mixed-use comprising of residential caravan
site, caravan storage and vehicle storage**

at

Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD

I, Daniel Jackman of Bay Farm Grange Road, Bursledon solemnly and sincerely make this
Statutory Declaration. I declare as follows:

1. I have lived in a caravan at Bay Farm, Grange Road, Bursledon, Southampton, Hants, SO31 8GD for 12 years. I do not identify myself as being a gypsy or person having a nomadic lifestyle.
2. This caravan has been my sole and main residence throughout the period that I have been at the site.
3. The land outlined in red on the attached plan (Ref. Site Location Plan - 1:1250) has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage since I have lived on the site.
4. At no time since that date has the use of the land as a caravan site, and for caravan storage and vehicle storage been stopped or abandoned, nor has the land been used for any other purpose.
5. There has always been 5 or six other people living on site over the last ten years.
6. Until recently Stuart Hopkins also lived on the site, but sadly passed away in March 2022. He had also been on the site for some 11 years.

I make this solemn declaration conscientiously believing the same to be true and by virtue
of the provisions of the Statutory Declarations Act 1835.

Sign

DECLARED

This.....

Before me,

A Commissioner for Oaths/Solicitor

Michael Devall
Placidi & Co
27 Middle Road
Park Gate
Southampton
SO31 7GH

Site Location Plan



0 50
Metres

Plan Produced for: Bay Farm
Date Produced: 24 Feb 2022
Plan Reference Number / Project ID: TQRQM22055133300923
Scale: 1:1250 @ A4

Appendix (vii) – Statutory Declaration – Mr Ian Hodges

Statutory Declaration

**In support of application for Certificate of Lawfulness of Existing Use or Development under
Section 191 of the Town and Country Planning Act 1990 (as amended)**

for

**confirmation of the use of the site continuously for a mixed-use comprising of residential caravan
site, caravan storage and vehicle storage**

at

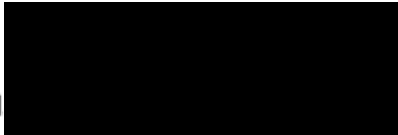
Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD

I, Ian Andrew Hodges of Bay Farm Grange Road, Bursledon Hants, SO31 8GD solemnly and
sincerely make this Statutory Declaration. I declare as follows:

1. I have lived in a caravan at Bay Farm, Grange Road, Bursledon, Southampton, Hants,
SO31 8GD for some 15 years. I do not identify myself as being a gypsy or person
having a nomadic lifestyle.
2. This caravan has been my sole and main residence throughout the period that I have
been at the site.
3. The land outlined in red on the attached plan (Ref. Site Location Plan - 1:1250) has
been used continuously for a mixed-use comprising of residential caravan site,
caravan storage and vehicle storage during the time that I have lived on the site.
4. At no time since that date has the use of the land as a caravan site, and for caravan
storage and vehicle storage been stopped or abandoned, nor has the land been used
for any other purpose.
5. During my time living on the site there have been a number of other people living on
the site. Stuart, one of my neighbours, who sadly passed away in March 2022, had
also lived on the site for a similar amount of time.

6. I pay rent monthly directly to Mark and Debbie Kempster who have run the site since taking over from the previous owners.

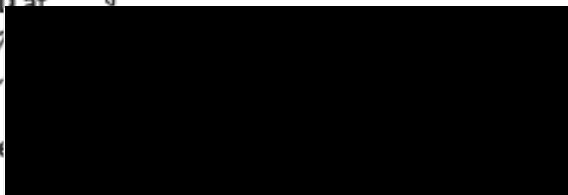
I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Signed 

DECLARED at

Park Gate, Clump Lane

This.....



22

Before me

A Commissioner for Oaths/Solicitor

Michael Devall
Placidi & Co
27 Middle Road
Park Gate
Southampton
SO31 7GH

Site Location Plan



0 50
Metres

Plan Produced for: Bay Farm
Date Produced: 24 Feb 2022
Plan Reference Number / Project ID: TQRQM22055133300923 / LPL1135
Scale: 1:1250 @ A4

Appendix (viii) – Statutory Declaration – Mr Simon Venn

Statutory Declaration

**In support of application for Certificate of Lawfulness of Existing Use or Development under
Section 191 of the Town and Country Planning Act 1990 (as amended)**

for

**confirmation of the use of the site continuously for a mixed-use comprising of residential caravan
site, caravan storage and vehicle storage**

at

Bay Farm Grange Road, Bursledon, Southampton, Hants, SO31 8GD

I, Simon Venn of Bay Farm Grange Road, Bursledon solemnly and sincerely make this

Statutory Declaration. I declare as follows:

1. I have lived in a caravan at Bay Farm, Grange Road, Bursledon, Southampton, Hants, SO31 8GD since I was 17 years old, some 16 years ago. I do not identify myself as being a gypsy or person having a nomadic lifestyle.
2. This caravan has been my sole and main residence throughout the period that I have been at the site. While my caravan is currently located towards the rear of the site over the years it has been sited in a number of different locations within the Bay Farm site.
3. The land outlined in red on the attached plan (Ref. Site Location Plan - 1:1250) has been used continuously for a mixed-use comprising of residential caravan site, caravan storage and vehicle storage during the time that I have lived on the site.
4. At no time since that date has the use of the land as a caravan site, and for caravan storage and vehicle storage been stopped or abandoned, nor has the land been used for any other purpose.
5. There has always been at least four other people living on the site.

6. Towards the back of the site there is an area of land that when not used for vehicle and caravan storage has been used for recreation, including dog walking by people living on the site.

7. Until recently Stuart Hopkins also lived on the site, but sadly passed away in March 2022. He had also been on the site for some 11 years.

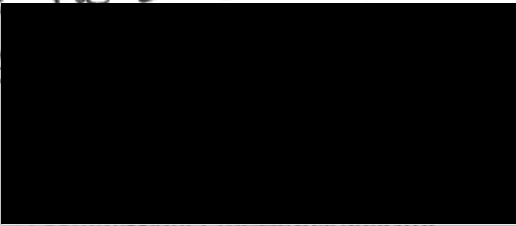
I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Signed..

DECLARED at

This.....

Before me,

Park Gate Hampshire
22

Michael Devall
Placidi & Co
27 Middle Road
Park Gate
Southampton
SO31 7GH

Site Location Plan



0 50
Metres

Plan Produced for: Bay Farm

Date Produced: 24 Feb 2022

Plan Reference Number / Project ID TQRQM22055133300923 / LPL

Scale: 1:1250 @ A4

Appendix (ix) – Additional Supporting Statements

A- Statement by Kim Lewis

B- Statement by Philip Cullin

A - Statement by Kim Lewis

From: [debbie kempster](#)
To: [Bob Neville](#)
Subject: Mark kempster
Date: 31 March 2022 16:39:12

Hi Bob

I have sent you over some emails from people that have witnessed people living here over the years .

Hi another person

Kim Lewis

156 southeast road

Sholing

Southampton

To whom it may concern.

I can confirm that for more than 15 years I have been a regular taxi driver for the kempster family at Bay farm grange road netley So318gd.

Picking up for nights out airport runs ect .I can confirm that over this period of time upto date I also have picked up others that occupy caravans on mark and Debbie land and drop off or pickup to take them back to there caravans .

Kindest regards kim

B – Statement by Philip Cullin



Abbey Asphalt Roofing Ltd
Mastic Asphalt Roofing/Flooring/Tanking & High Performance Felt Roofing

360 Brook Lane
Sarisbury Green
SO31 7DP

Tel: 01489 600393

Email: info@abbeyasphaltroofing.co.uk
Web: www.abbeyasphaltroofing.co.uk

Date 01/04/2022

Statement of fact

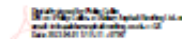
My name is Philip Cullin and I'm the director of Abbey Asphalt Roofing Ltd.

The company was founded in 2009 and since this date our yard has been at the rear of Bay Farm, off Grange road, Netley Abbey.

Every since I have been there, there has always been people living in caravans on the land just up from our yard, We have never had any problems with these people as they generally keep to themselves.

Philip Cullin (director)

Philip Cullin


Philip Cullin, Director, Abbey Asphalt Roofing Ltd, 360 Brook Lane, Sarisbury Green, Southampton, SO31 7DP

VAT Reg No: 221497026 Company Reg No 9675268



Appendix (x) – Dog Breeders Licence

NO: LC202010-3297

**THE ANIMAL WELFARE (LICENSING OF
ACTIVITIES INVOLVING ANIMALS)
(ENGLAND) REGULATIONS 2018
LICENCE TO KEEP A DOG BREEDING
ESTABLISHMENT**

Eastleigh Borough Council

hereby license:

Mrs Debbie Kempster

of:

**BAY FARM, GRANGE ROAD, BURSLEDON,
SOUTHAMPTON, SO31 8GD**

to keep a Dog Breeding Establishment at the
above premises subject to The Animal
Welfare (Licensing of Activities Involving
Animals) (England) Regulations 2018
licence conditions

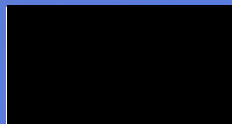


This Licence will be in force for a period of
one year

28th January 2021 to 27th January 2022

DATED this 21th day of January 2021

Maximum number of breeding bitches: ***five***
Maximum number of stud dogs kept on site:
one



.....
Head of Environment

Local Area Services
Eastleigh House