

ET Planning

Certificate of Lawful Use

Client:
Jimmy Lee

Plot 1, Highfield Park

Eversley Road, Arborfield, RG2 9PP

Certificate of lawful development for a residential caravan site.

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Appendix 1: Statutory Declarations

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01 Introduction

- 1.1 This statement is produced to support a planning application for a Certificate of Lawful Development for a residential caravan site.
- 1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, summarises the relevant legal tests and set out the application in light of these. The conclusion reached is that the development is lawful and so no enforcement action can be taken.
- 1.3 In addition to this report, the application is accompanied by the appropriate certificate application forms, statutory declarations, aerial photographs .
- 1.4 The relevant application fee will be submitted by the applicant separately.

02 Site location and description

- 2.1 Plot 1 forms part of the wider Highfield Park complex, a mass area of land predominantly occupied by caravan storage, situated to the west of Eversley Road (A327) on the southern edge of Arborfield.
- 2.2 The site sits at the edge of the settlement, lying at the transition point between established residential neighbourhoods to the East and open countryside to the West. The site's positioned south of the A327/Observer Way roundabout junction, providing access to areas such as Wokingham, Reading and the South Berkshire area.

2.3 Towards the Eastern region of the site, the land is characterised by the suburban residential area of Arborfield. Within this area is a mixture of detached and semi-detached houses, small cul-de-sacs and open green spaces.

03 Planning History

3.1 Relevant Planning history for Highfield Park is provided below:

- App no: 223669 - Full application for the proposed addition of 5 no. mobile home pitches and re-arrangement of existing pitches on plot 10 for gypsy and traveller residential use. (Approved 14/11/2025).
- App no: 222332 - Application to vary conditions 4 and 7 of planning consent F/2012/0276 (122395) for the proposed extension and re-design of Gypsy site to include the stationing of caravans for 8 pitches and 3 transit pitches together with additional hardstanding and utility/dayrooms. Variation removes requirement for utility/day rooms to be completed prior to occupation (Condition 4) and addresses submission of materials (Condition 7). (Approved 16/09/2022).
- App no.: 160194 - Application for submission of details to comply with the following conditions of planning consent F/2012/0276 (26/11/2015): 7. Samples of materials; 8. External lighting; 11. Scheme of Landscaping; 13. Fence colour details; 14. Secure bin

stores; 15. Foul and storm water disposal; 16. Drainage; 17. Archaeological work; 18. Mitigation scheme. (Split decision 03/04/2017).

- App no.: 161467 - Conditions application for the submission of details to comply with planning consent F/2014/2032 (140883). Conditions included: 5. Samples of materials; 8. Scheme of Landscaping; 9. Details of Landscaping; 10. Bin Stores; 11. Method of disposal of foul and storm water sewage; 12. Details for runoff water; 14. Scheme to deal with contamination. (Split decision 12/12/2016).
- App no.: 150893 - Application to vary condition 3 of appeal consent T/1997/66796 for change of use of land to permanent residential occupation (Gypsy Caravan Site). Condition 3 altered to state: "There shall be no more than three mobile homes and one touring caravan stationed on plots 8 and 9." (Approved 26/11/2015).
- App no.: 140883 - Application for material change of use of land from GRT pitches to 13 GRT pitches and erection of washrooms. (Approved 02/11/2015).
- App no.: 122395 - Proposed extension and redesign of Gypsy site to include stationing of caravans for 8 pitches and 3 transit pitches

with additional hardstanding and utility/dayrooms. (Approved 26/11/2015).

- App no.: 990874 - Proposed variation of Condition 01 of consent 97/66796/F to allow subdivision of Plot 5 and provision of an extra mobile home. (Approved 21/02/2000).
- App no.: 990490 - Proposed change of use of land to Gypsy caravan site. (Refused 08/03/2000).
- App. No.: 991751 - Details to comply with conditions required by appeal decision for application 97/66796/T, including landscaping and bunding details. (Approved 17/06/1999).
- App. No.: 971705 - Proposed change of use of land to permanent residential occupation (Gypsy Caravan Site). (Approved 02/04/1998).
- App. No.: 960426 - Proposed variation of Condition 1 on approval 43644 to allow continued use of caravan site. (Refused 13/02/1997).

04 Town and Country Planning Act 1990

4.1 Section 55(1) of the Town and Country Planning Act 1990 defines development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'

4.2 Section 171A 1(B) of the Town and Country Planning Act relates to the time frames in which enforcement action can be taken against breaches of planning control. This includes "*carrying out development without the required planning permission.*" Section 171B (3) relates to breaches of planning control consisting of "*in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach*".

4.3 Section 171B (3) therefore controls the relevant timeframe for the immunity from enforcement action, which means that a development in breach of a planning condition becomes immune from enforcement action after 10 years.

4.4 The dates to demonstrate the lawfulness of the change of use are from the date of the submission, December 2025 back 10 years to December 2015. In this case the applicant's use commenced in 2005, a

period excess of 10 years, with the original use commencing in the late 1990s when permission was first granted

4.5 Circular 10/97 (Enforcing Planning Control) was archived in March 2014 and replaced by the National Planning Policy Guidance (NPPG). The NPPG reiterates the previous guidance of the Circular and in paragraph 006 states that "*the applicant 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*".

4.6 It is established case law (F W Gabbitas v SSE and Newham LBC [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted.

4.7 The following section outlines the evidence submitted within the Appendices, and explains how this evidences immunity from enforcement action:

05 Assessment of Submitted Evidence

5.1 **Appendix 1: Statutory Declaration**

5.2 **Declaration of Mr Jimmy Lee** has been submitted and confirms that he purchased Plot 1 in Highfield Park in June 2005. There are 4 residential

caravans on the site, which have access to electric, water and foul sewer connections. The 4 caravans have been continuously occupied for residential use, and the use is continuous to the present day. All occupants of caravans on this site pay him rent as the owner of the land.

5.3 **Declaration of Mr Andy Cleeve** has been submitted and confirms he began living at Plot 1 Highfield Park within the first quarter of 2015. As Mr Jimmy Lee is the owner and landlord of the site, his tenant Mr Andy Cleeve who lives in his caravan alone, pays his monthly rent directly to him. Mr Andy Cleeve pays his water and electricity bills separately whilst using gas bottles to supply everyday gas usage. Since the date in which he first moved onto the site, his residential occupation at the site has been continuous.

5.4 **Appendix 2: Aerial Photographs**

5.5 Appendix 2 contains an aerial photograph dated from 25th March 2017. This photograph illustrates that at this date, on Plot 1 Highfield Park, 4 different caravans were present on the site. This is the most recent satellite image taken of the site since the date in which Mr Andy Cleeve began his residential occupancy.

5.6 Although this does not prove that he was on the site from the date mentioned in his declaration, this photograph does corroborate that he was

on the sight at in February of 2017 – two years after he initially began his residence.

- 5.7 As this is the most recent satellite image on Google Earth Pro with clear resolution, this is the most reliable source of photographic evidence which is relevant in this specific case.
- 5.8 Appendix 2 also contains a satellite image taken on 27th February 2022, showing four different caravans on the site. This image is relevant as it corroborates the continuous residential use of the site by Mr Andy Cleve within the 10-year period to which this certificate application relates.
- 5.9 The presence of the caravans corroborates the evidence submitted regarding the continuous residential occupation set out in the statutory declarations. All caravans at this time were for residential occupation. Both photographs present a total of 4 caravans on Plot 1 Highfield Park.

Caravan Count

- 5.10 The Council will hold bi-annual caravan count data which the Officer is requested to obtain from Planning Policy colleagues. Such data will evidence the number of residential caravans which have been present on site over the 10-year period.

06 Conclusion

6.1 The relevant test for Lawful Use applications is the 'balance of probability.' Based on the submission of evidence, including a Statutory Declaration which can be relied upon as true, clear and unambiguous, it is submitted that the use of the land for 4 residential caravans has been in place for a period of at least 10 years, and is thus immune from enforcement action.

6.2 If the Council are in possession of any information that leads them to a different view to that set out above, we ask that we have the opportunity to examine this information to ensure a fair and balanced assessment

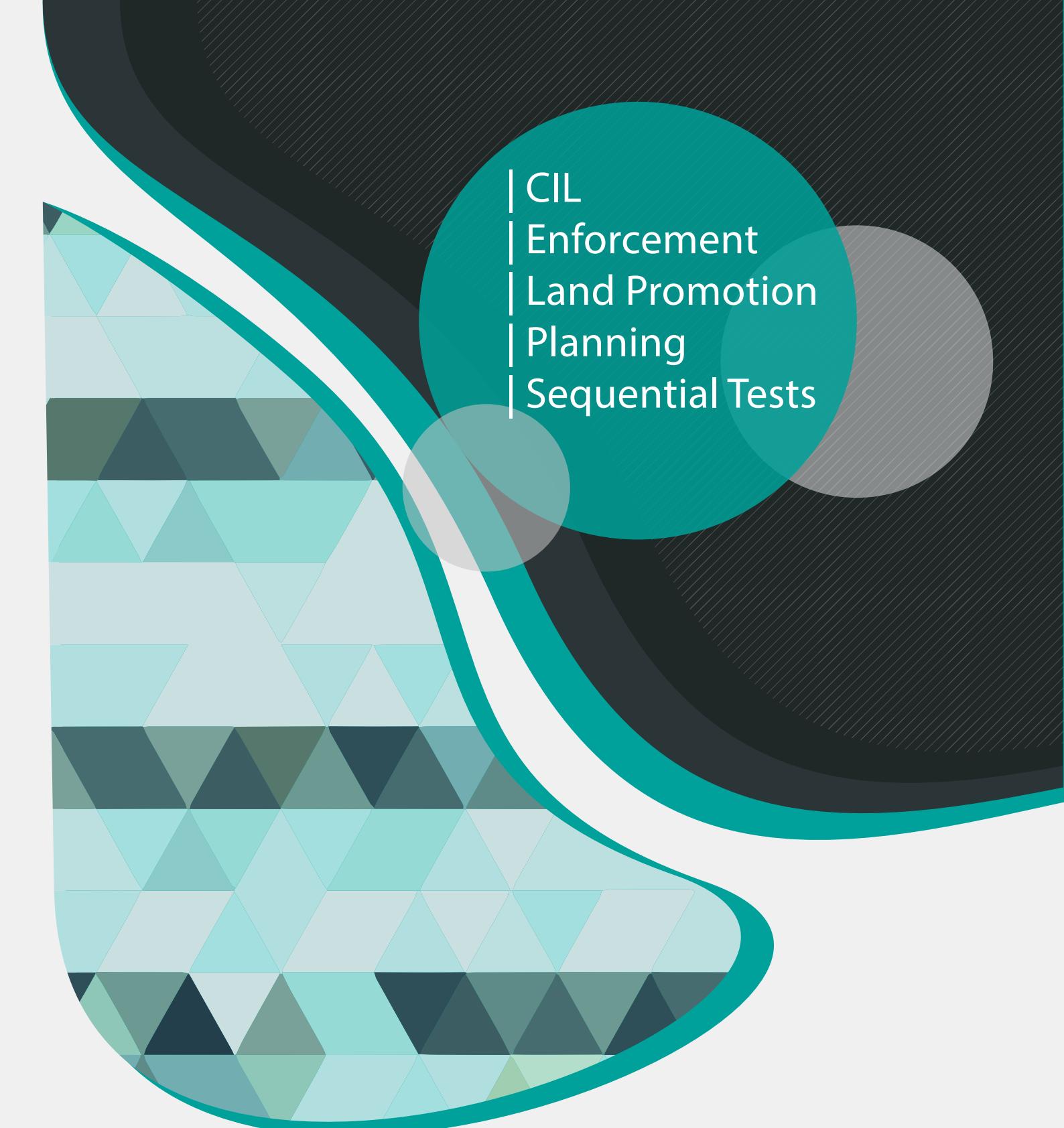
6.3 However, it is considered that the submitted evidence meets the tests of being clear and unambiguous. On the balance of probability, based on the submitted evidence, it is therefore requested that the application for a certificate of existing lawful use be approved.

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