

Statement of Case

Applicant: Mr. S & Mrs. R Beazley of Greenwood Farm, Greenwood Lane, Durley, Southampton Hants SO32-2AP.

Site Address: Copse Mead adjoining The Old Stables, Greenwood Lane, Durley, Southampton, Hampshire.

Agent: Mr. C. Garner: Senior Planning Consultant PSI Planning Law Ltd.



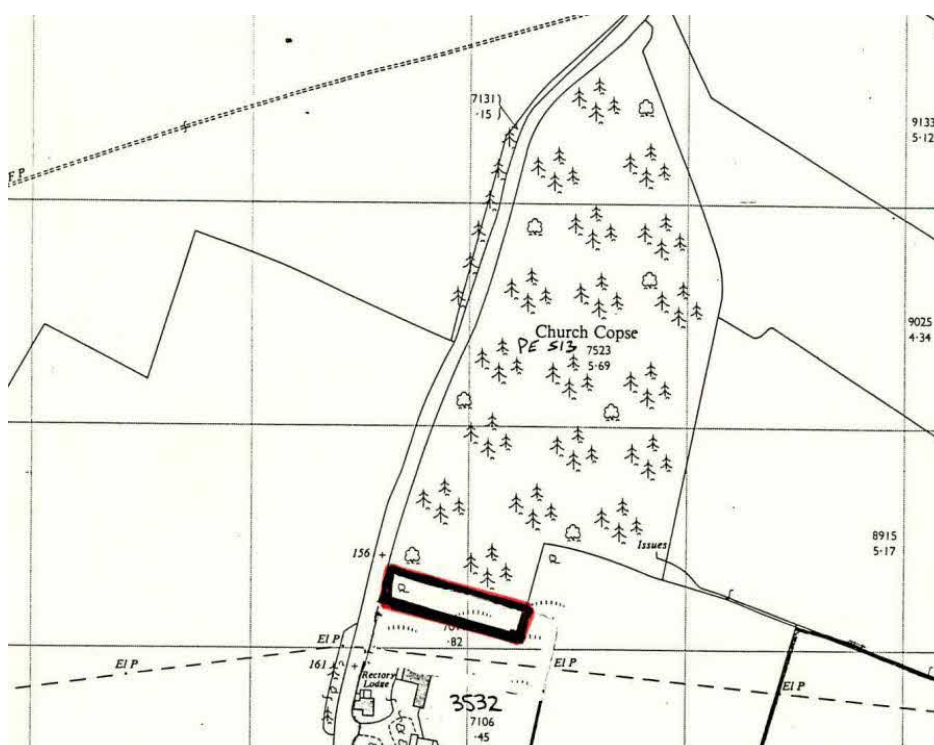
The Application

This application seeks to prove within the balance of probabilities that a residential mobile home has been located at the above site address without the benefit of planning consent for a period more than 10-years prior to the date of this application.

1) Relevant Planning History:

1.1) On 01/09/1988, an Enforcement Notice relating to Land known as 'Copse Mead' adjoining The Old Stables, Greenwood Lane, Durley, Southampton, Hampshire was issued under ref: 88/00016 for making a material change in the use of the land from agricultural use, to use as a site for a residential mobile home. The steps to be taken were to cease the use of the land as a site for a residential mobile home and remove the mobile home from the land within a period of three months from the date the notice took effect on 07/10/1988.

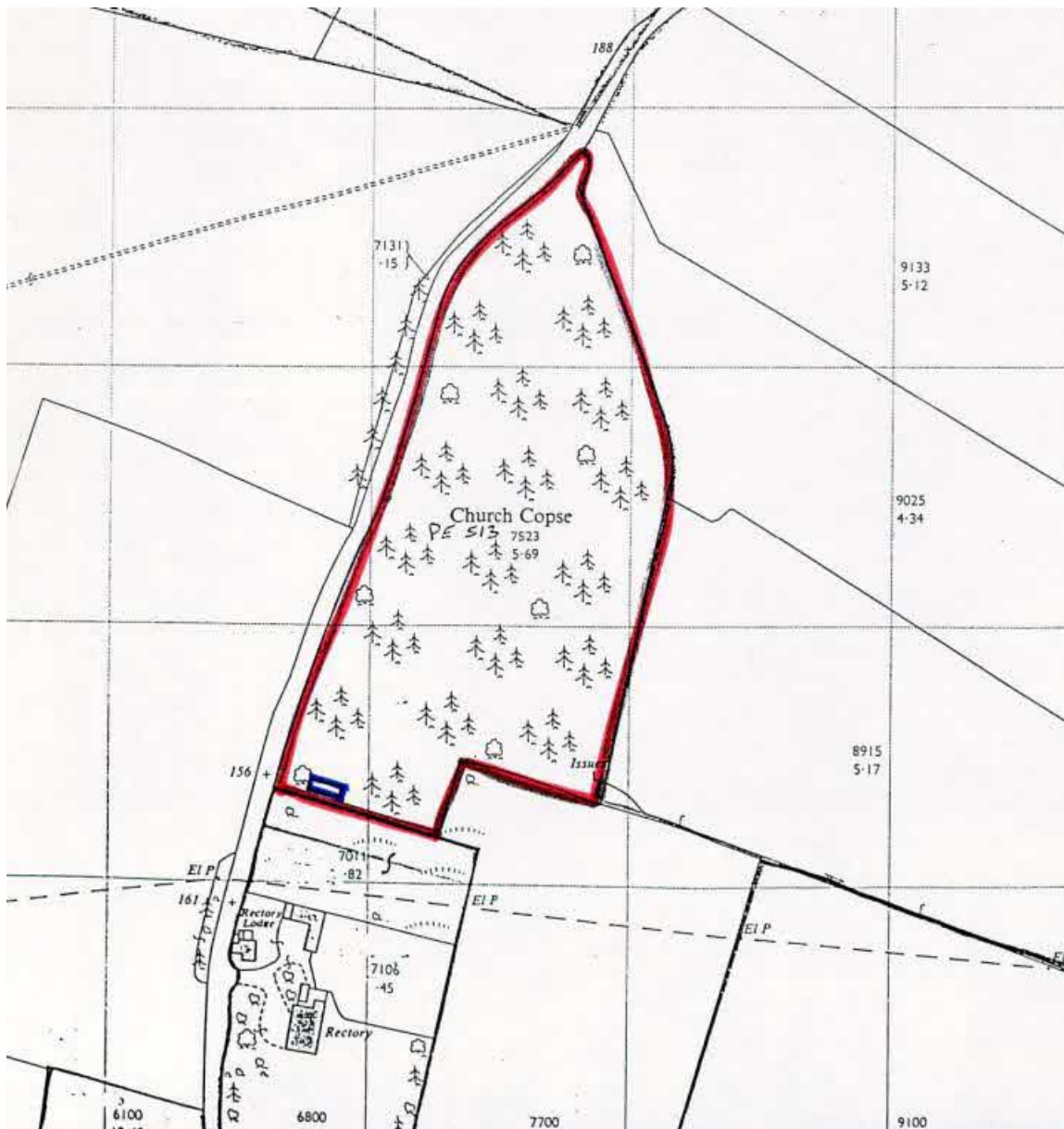
Enforcement Notice 88/00016 Mapping



1.2) The above enforcement notice was complied with when Mrs. Hurst removed the residential mobile home from site and relocated it upon land known as Church Copse.

1.3) On 08/04/1993, a second Enforcement Notice was issued under ref: 93/00009 relating to land at Church Copse, Greenwood Lane, Durley, Hampshire. This was issued for the unauthorised change of use of land for siting a residential mobile home. The steps to be taken were to permanently remove the mobile home from the land as outline on the map below, against which an appeal was made and dismissed with an order that the residential mobile home be removed from site illustrated below within six months from 04/02/1994.

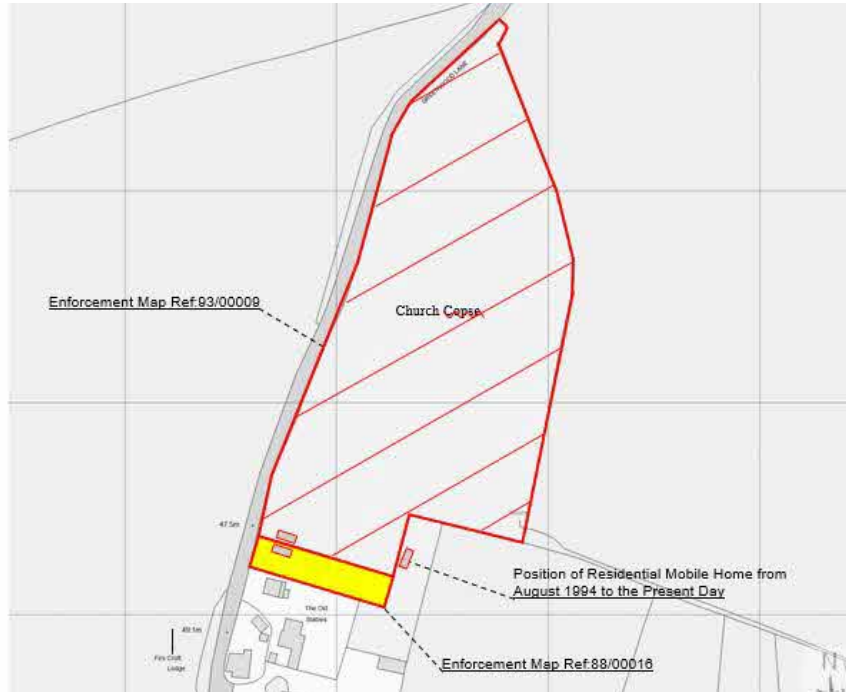
Enforcement Notice Ref: 93/00009 Mapping



1.4) Mrs. Hurst complied with the notice by removing the residential mobile home from the site within the period stipulated to the land illustrated on the Recap map below, after which Mrs. Hurst connected the unit to a septic tank and connected water, gas and electricity into the residential mobile home and lived there for several years without any further enforcement notice being issued in respect of the new site location.

Recap:

1.5) The following map illustrates the enforcement notices and associated mapping that continue to run with the land, along with the three locations where the residential mobile home has been located from some time prior to the issuance of the first enforcement notice to the present day.



1.6) The applicants purchased land known as 'Copse Mead' and 'Church Copse' from Mrs. S Hurst in 2021/22 which included a residential mobile home that had been connected to a septic tank, water, electricity, and gas, along with existing access, stables, store, and woodland outline in red on the site plan below.

Site Plan



Existing Residential Mobile Home



PADDOCK



MOBILE HOME



MOBILE HOME

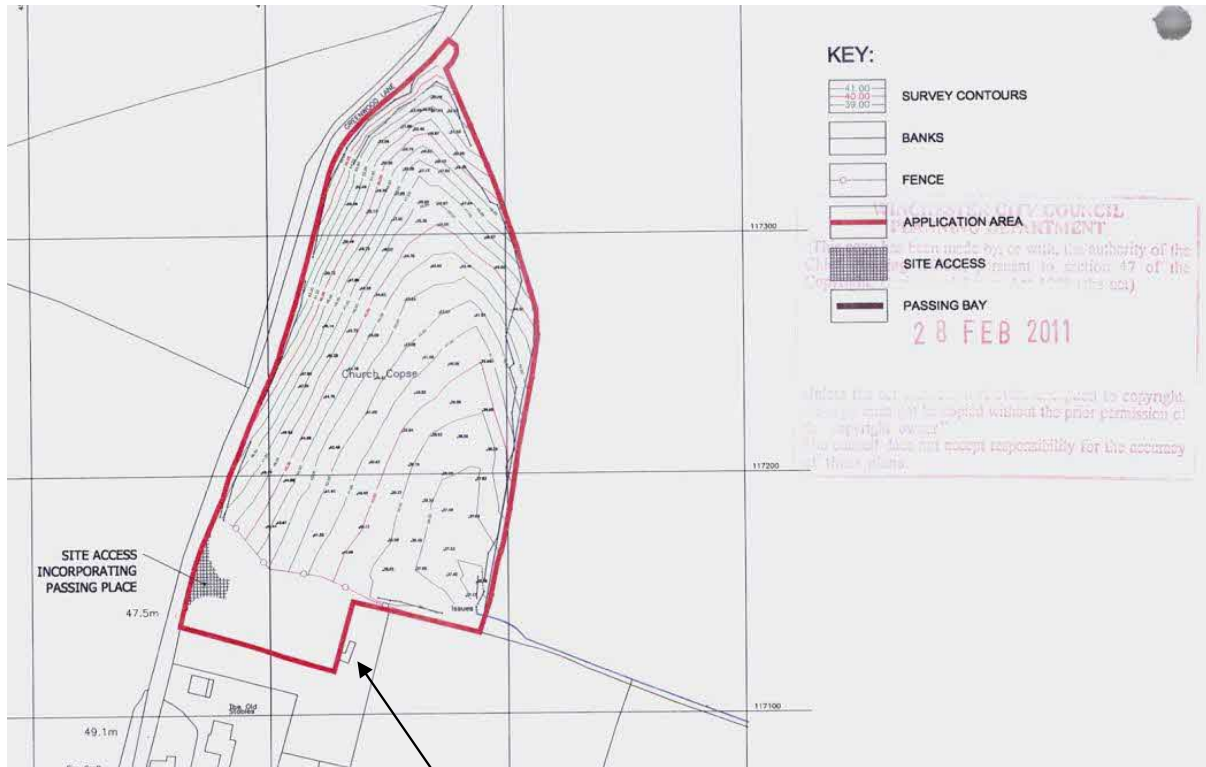


MOBILE HOME



Evidence:

1.7) The following WCC date stamped 28/02/2011 location map, is submitted in evidence to support the fact that the residential mobile home has been in its current position for a period more than ten-years prior to the date of this application.



Position of Existing Residential Mobile Home in 2011

Legal Considerations:

1.8) A decision or document is a nullity if it is so defective on its face that it is not the type of decision that its maker would have wished it to be, for example, an enforcement notice issued against a claimed breach of planning control would be a nullity if, it failed to identify the land, therefore a document is a nullity if on its face it fails to include an element (or contains conflicting material) which means that it cannot be given effect.

1.9) In this case it is evident that the LPA have failed to precisely identify the full extent of the boundaries of Copse Mead, therefore, although the current location of the mobile home falls within Copse Mead, the red line on the ENF map limits the notice to that which has been outlined.

1.20) It is of note that Regulation 3 of the 1991 Regulations requires that the enforcement notice specify the precise boundaries of the land to which it relates which is evidently not the case here, accordingly based upon that described above it is clear that the LPA could not rely upon the "second bite" provisions of section 171B(4)(b) of the 1990 Act, which informs us that the LPA should ensure that they are still "in time" to issue a further enforcement notice, however as the mobile home has existed in its present location for the relevant period to have achieved immunity against enforcement action, no further notice can be issued.

Conclusions:

- 1) Although the residential mobile home is located upon land known as Copse Mead, the enforcement notice ref: 88/00016 issued upon Copes Mead is limited to the map issued with the said notice and is therefore not affected by it.
- 2) The current location of the residential mobile home is not affected by the enforcement notice issued upon land known as Church Copse under ref: 93/00009, as it is limited to the map issued with the said notice.
- 3) Given that time has now expired to take enforcement action regarding the current location of the residential mobile home, the LPA cannot rely upon the "second bite" provisions of section 171B(4)(b) of the 1990 Act.
- 4) The current location of the residential mobile home is now immune from enforcement action due to the passage of time exceeding 10-years prior to the date of this application.

Considering the above, we respectfully request that WCC issue a CLEUD to make the stationing of the existing residential mobile home lawful in its current position.