

STATEMENT OF CASE  
BY

Richard Stone (Rule 6 status)

Relating to appeals by

Heather Woods & Graham Snape

In the matter of an Enforcement Notice dated 24/09/2020

Land at The Greenhouse, Gravel Hill, Shirrell Heath

Southampton, Hants SO32 2JQ

Planning Insp Ref: L1765/C/20/3261886

L1765/C/203261887

WCC Ref: 19/00068/CARAVN

## 1.0 Introduction

1.1 I am Richard Stone of 1, Sunnybank, Gravel Hill, Shirrell Heath, Southampton, Hants SO32 2JQ. The neighbour to the appeal site. I also am the previous owner of the land known as The Greenhouse, to which the enforcement notice relates. I have been a practising Planning Consultant independently for the last 25 years. This statement is made under rule 6 in support of Winchester City Council issuing an enforcement notice for a change of use of land and construction of a single dwelling house comprising of a former mobile home.

2.0 The breach alleged in the enforcement notice: -

Without planning permission:

- (i) "The construction of a single dwelling house comprising a former mobile home ("X") with extension ("Y") and decking in the positions marked "X" and "Y" on the attached plan.
- (ii) The material change of use of the Land from horticultural to ancillary residential use and storage (including the storage of domestic items in the glasshouse)."

2.1 It is requested that the LPA, and the appellants provide the Inspector with a mutually agreed plan showing the lawful use of the land outlined in red on the enforcement notice at the time of the first day of occupation of the mobile home. My evidence is that part of the land was horticultural and the smaller Southern portion was garden land not curtilage. A post, and 2 rail fence separated the 2 areas of land. Clarification will be submitted on the difference between garden land and curtilage. Evidence will be provided showing that curtilage is not a defined planning use, that can be transferred from one property to another. This will save Inquiry time on the day.

## 2.2 Both appellants are appealing the same grounds:

Ground (a) That planning permission should be granted.

Ground (b) That the breach of control alleged in the notice has not occurred as a matter of fact.

Ground (d) That at the time the notice was issued it was too late to take enforcement action against the matters in the notice.

Ground (f) The steps required are excessive and lesser steps will overcome the objections.

Ground (g) The time for compliance is too short

### GROUND (a)

- 3.0 Extant planning policies will be provided and discussed relating to the Ground (a) appeal in that the application is in conflict with local plan policy MTRA4. Local plan part 1 and paragraph 79 of the NPPF. The application is also contrary to policies CP16 and CP17 of the WDLP part 1 and in conflict with para 170 of the NPPF advice. The application cannot meet the required site lines when leaving the track and entering the main carriageway with a 40mph speed limit.

### GROUND (b)

- 4.0 The ground (b) appeal has to fail as the appellant submitted a S191 application for the work carried out to the caravan which is now enforced against. A statutory declaration was submitted as part of that application by Mr Snape that works were carried out in 2013 and 2018 alleging the caravan had become a dwelling. (Operational development). Once again, the change of use appeal relating to the land has to fail, as the appellant in his statutory declaration admits to using the land to the North of the fenced area domestically. Therefore, the allegation in the notice has taken place. The lawful use of this land is agricultural. Affidavits, and photographs will be provided setting out how the land has been used for the previous 10 years prior to the service of the enforcement notice.

### GROUND (d)

- 5.0 Evidence will be provided that the work alleged in 2013 converting the caravan to a dwelling as a matter of fact did not take place. Support will be provided in the form of photographs, statutory

declarations, affidavits and a number of e mails confirming that the work as described did not take place. In any event, in the absence of the above information the LPA refused the S191 application as the works described did not render the caravan immobile. The 2 letters relating to the inspection of the caravan, Clarks, dated 05/07/2019 and South Coast Body Repairs dated 08/07/2019 will show that both parties mis-directed themselves and the evidence cannot be relied upon.

It appears that all parties agree the work carried out in 2018 did take place, and convert the caravan to a dwelling (operational development). This work was carried out in early 2018 and one external wall was removed from the caravan, to allow access to an added extension. This was in the first week of May 2018. The enforcement notice was served on 24<sup>th</sup> September, 2020. The time difference to obtain immunity only accumulated to 29 months, far short of the 48 months required for immunity from enforcement.

5.1 The land to the North has not been used as domestic garden/curtilage for a continuous period of 10 years. Photographs and statutory declarations/ affidavits will outline the use.

#### GROUND (f)

- 6.0 The land prior to the occupation by the appellants was open agricultural land and should return to that state. There is no need for the structure to remain as there is insufficient agricultural intensification to warrant a store or shelter. The structure is not required for ancillary accommodation to serve Sunnybank, which is in different ownership. The greenhouse is a sizeable structure which could function as part of another local agricultural enterprise.

#### GROUND (g)

- 7.0 Sites will be identified with vacancies for caravans in the local vicinity. There are numerous public and private sector properties for sale and rent including sheltered accommodation available locally.

- 8.0 Much of the evidence provided by the appellants is contradictory. In the first instance it was claimed that the occupation of the caravan was 1/1/2011. However, evidence now put forward appears that the sequence of events has changed, and the occupation of the mobile home took place sometime in 2010. Each statement, and supporting evidence relating to these dates, will be explored in the proof of evidence.
- 9.0 It matters not whether the caravan was first occupied in January 2011 or sometime in 2010. The allegation in the enforcement notice relates to a dwelling and not a caravan. The use of land by the stationing of the caravan ceased at the time it was converted to a dwelling in 2018, and a new planning time clock started. Therefore, any evidence prior to this date is inadmissible and no relevance to the breach identified in the notice. The new dwelling did not exist the required 4 years prior to the service of the notice for immunity.
- 10.0 There is clear evidence that the previous consultant representing the appellants prior to the submission of this appeal, on a number of occasions mis-lead the LPA, and withheld information, which delayed formal action after the true assessment of what was happening. In planning terms this has to be regarded as **CONCEALMENT**. Substantial evidence will support this claim.
- 11.0 The greenhouse and land in the Northern part of the site was not used domestically until post 2015.

**List of Documents that will be produced and referred to:-**

Affidavit by Richard Stone

Affidavit by Jane Foster

Affidavit by Katie Andrews

Photographs of the site

Emails to the LPA from the consultant

Emails to Richard Stone sent from the consultant

Various other relevant emails

High Court Judgement:

1. Adrian Burford v Secretary of State for communities and local Government.
2. Test Valley Borough Council.

High Court Judgement:

Sutcliffe v Calderdale BC.

Appeal decision: land at the North of 48, Rose Way  
APP/K2420/X/13/2202273.

A printed text message from Paul Clark of Clarks Transport.

Commentary by Brachers relating to concealment.

The Judgement of an inquiry into Clarks Caravan & Boat Haulage Ltd

Invoices for materials.

Highway statement

