

**APPELLANT'S RESPONSE****to Statements received from the LPA and Mr Stone****Prepared by Christopher Ward BA (hons) LLM, MRTPI****ON BEHALF OF****HEATHER WOODS AND GRAHAM SNAPE****Relating to an Enforcement Notice Dated 24<sup>th</sup> September****Affecting Land at The Greenhouse, Gravel Hill,  
Shirrell Heath, Hampshire SO32 2JQ****Appeal currently scheduled to be considered at an Inquiry****Planning Inspectorate Reference:-****APP/L1765/C/20/3261886 and  
APP/L1765/C/20/3261887****Winchester City Council Reference:-****19/00068/CARAVN****BJC Planning  
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## **1.0 INTRODUCTION**

- 1.1 The appeal is against an enforcement Notice dated the 24<sup>th</sup> September 2020 and two appeals were submitted by Heather Woods and by Graham Snape on the 23<sup>rd</sup> October 2020.
  
- 1.2 The appeal was confirmed as valid by the Inspectorate on the 14<sup>th</sup> December, with the issue of a 'start date' letter, which confirms that the lead appeal (3261886) will proceed on grounds (a), (b), (d), (f), and (g) and the child appeal (3261887) will proceed on grounds (b), (d), (f), and (g). This letter also indicates that the Inspectorates choice of procedure will be an Inquiry, but that this process will remain under review. The letter includes various 'dates', but these have since been updated.
  
- 1.3 The appellants have been provided with copies of the Statements from the LPA and from Mr Stone on the 11<sup>th</sup> February 2021. The comments below refer to the content of those Statements.
  
- 1.4 Where comments refer to specific sections in these two statements that section or paragraph will be identified by a reference in [square brackets]. However, the lack of any such reference, or the lack of comment on any section should not be taken as an indication that the appellants accept those comments, if contrary to the evidence and to the Statement submitted with the appeal.
  
- 1.5 It is noted that the LPA and Mr Stone both refer to issues of concealment. Whilst such issues will be tested in due course, it is suggested that all correspondence relating to enforcement issues on the site should be provided as a matter of urgency. Attention is drawn to para 1.9 of the Appellants' own Statement which refers to the refusal of the LPA to release these details. Specific items are referred to in paragraphs 2.1, 2.2, 2.3, 2.6, and 2.10 below.

1.5 Finally, Mr Stone refers to documents or evidence that will be provided, but has not been attached, so this response does invite the Inspectorate to require those details to be provided as soon as possible (see para 3.3).

## **2.0 RESPONSE TO COMMENTS BY THE LPA**

2.1 [4.1] This table duplicates and matches the history of Enforcement investigations as set out in paragraphs 2.3 - 2.8 of the Appellants' Statement. However, reference is made to paragraph 1.9 of that Statement which referred to the LPA having refused access to details on those files, notwithstanding that those details may be important to clarifying events relevant to the site. As all those details appear to relate to the appellants' home, it is unclear why these details are considered confidential. Hence the LPA is invited to provide copies of all correspondence relating to these investigations to provide clarity about the history and avoid time being wasted later. Notwithstanding the request for copies of all site notes and correspondence, a specific request is made to have copies of all correspondence relating to the visits in 2010.

2.2 [5.2] The appellants are unaware of what correspondence took place between Mr Cox and the LPA in 2010, and do not have copies. The letter provided dated 10<sup>th</sup> June was sent to a neighbour and only copied to the appellants recently. The Council is asked to provide copies of all correspondence.

2.3 [5.3] It is agreed that the correspondence and other details from 2010 are important details about the site so unclear why the LPA has refused to release full copies of that investigation including all letters. Significant time may be wasted later in this appeal process if these details are not released now.

2.4 [5.4-5.5] The appellants' statement takes care to set out the evidence that is now available and the appellants have been obliged to accept the unfortunate fact that errors were made in relation to dates previously given. However, it would be wrong and misleading to proceed on the basis of inaccurate information. The appellants were not aware of the visit by Mr Riding in May

2010, or present when he visited in August 2010. It was their understanding that he would be visiting (in August) to check on the summerhouse.

- 2.5 [5.6] The papers held by the LPA may clarify why these errors were made, but they had no contact with the Council in 2010. It is rejected that the Connor principle applies.

[Section 6]

- 2.6 This summary appears to be generally correct, although the appellants do not have copies of some of the correspondence referred to. Hence the request for copies of all enforcement correspondence and notes.

[Section 7]

- 2.7 The appellant has provided copies of the application details in Appendix LDC1 and of the decision, officers' report, and comments from Mr Stone in LDC2.

- 2.8 [7.4 and 7.5] It is noted that the LPA had regard to the challenge by Mr Stone to the dates provided, but 7.5 does not provide clarity as to whether it did or did not accept works being undertaken in 2013. The first bullet point questions the lack of dates on photos, but the final bullet point (page 13) appears to accept that the lowered entrance 'was done in 2013'. The first sentence of the second bullet 'The works to the entrance of the mobile home alone probably did not alter the nature of the structure from being one of a mobile home to that of a building as understood in law.' (my emphasis) suggests uncertainty. Clarification of this point may save time at the Inquiry.

[Section 8]

- 2.9 The objections raised by Mr Stone and partner to the LDC application have been addressed in paragraphs 6.9-6.16 of the Appellants' Statement.

- 2.10 [8.2 -Concealment] It is hoped that if the LPA provide full copies of correspondence from 2010 this may provide clarity as to whether there was or

was not an intention to mislead and, if so, by whom. However, it is pertinent that Mr Cox did not act for the appellants in 2010. This has been confirmed by Mr Cox to the LPA. It is the appellants' belief that that in various visits to the site by officers of the Council, when the appellants were present, there has been no attempt to hide that they were living on site.

[Section 9 – Response to Ground b)]

2.11 This appears to accept that the southern part of the site was residential (as in residential curtilage) and not in horticultural use in 2010, although doubt may exist where the boundary between this and the adjoining paddock was at that time. The appellant has provided evidence of the hedgeline in 2010.

2.12 [9.2] It is the appellants' contention that the glasshouse had been used for 'domestic storage' prior to their occupation notwithstanding that brambles were present on parts, but the appellant is seeking additional photos to clarify its use by them since 2010.

[Section 10 – Response to Ground d)]

2.13 This section largely sets out a contrary view about dates and the significance of these. The appellants have addressed all of these issues in the Planning Statement.

2.14 [10.5] It is accepted that the northern paddock was only used as a garden area from 2015, but not that this impacted on other parts of the site already in use for (ancillary) residential purposes.

[Section 11- Policy, NPPFD and Planning Balance]

2.15 These are issues that will be addressed in evidence, but it is accepted that these policies are relevant.

[Section 11- Nitrates]

- 2.16 It is relevant that WCC has been aware of the issues relating to Nitrates for approximately 3 years and does not currently have a robust strategy that will allow for housing development across the district. In the meantime, the Council has adopted an interim strategy (June 2020) which it is hoped will be updated in the course of the appeal. In reality, it is pertinent that the appeal site has been occupied and has produced nitrate for over 10 years, in common with most other properties locally, such that there has not been any effective increase in nitrate from the site since the issues surrounding the Solent were realised in 2017.

[Section 11- Solent Recreation Mitigation Partnership]

- 2.17 This raises a new issue not addressed in the Enforcement Notice. Hence the appellants will respond in due course.

[Section 12 ground f)]

- 2.18 [12.4] It is noted that the LPA suggest it is appropriate to require land to be 'returned' to a non-viable, dormant use, effectively meaning that it will not be used for any useful or beneficial purpose.

### **3.0 RESPONSE TO COMMENTS BY MR STONE**

- 3.1 [3.0] This appears to suggest that Mr Stone will be providing highway evidence. The appellant will respond as appropriate but if this amounts to a substantive point a highway consultant may be appointed with the potential for a claim of costs against Mr Stone.

- 3.2 [4.0] The grounds of appeal make clear that the ground b) appeal relates only to part of the site, namely to that part that was used as residential garden or storage in 2010.

- 3.3 [5.0] It is noted that Mr Stone disagrees about dates and also with both the appellants and the LPA in relation to the interpretation of details provided with

the LDC application. Mr Stone is invited to provide any photographs at an early date to save Inquiry time, but noted that these were not produced in 2019, at the time of his objection to the LDC. I have commented previously on the lack of accuracy in Mr Stone's dates.

3.4 [6.0] It appears that Mr Stone is suggesting that the land containing the accommodation was agricultural in 2010 (or 2011) and not part of the curtilage to Sunnybank. That is contrary to the evidence of both the Appellants and the LPA.

3.5 [9.0] It is unclear why Mr Stone suggests any evidence prior to 2018 should be inadmissible, especially as he has suggested providing photographs, statutory declarations, affidavits and emails all prior to that time. The appellants' case has been clearly set out and it is hoped that the Inspector will consider first whether the accommodation on site is a building, and then the evidence relevant to that finding.

3.6 [10] It is assumed that this allegation relates to information provided to the Council in 2010 by Mr Cox. Mr Cox has confirmed to the Council by e mail dated 19<sup>th</sup> September 2019, that in 2010 he acted for Mr Stone.

#### **4.0 COMMENTS FROM 3<sup>RD</sup> PARTIES**

##### Mr R and Mrs C Heasel

4.1 This confirms the arrival of the Mobile home in 2010, and that they reported it to WCC, and received a response from Mr Riding. Based on the response they assumed that Ms Woods (the person they knew to be occupying it) to be related to Mr Stone.

4.2 Para 4 confirms the planting of a laurel hedge after the arrival of the mobile home. This is the new hedge that can be seen on the photos dated May 2010.



4.3 Paragraph 8 refers to the use of the greenhouse, that it was not used as a greenhouse since 1999, and the items that were cleared after the appellants purchased the site (2015).

Alison Hampshire

4.4 This confirms her knowledge of the appellant's moving onto and occupying the caravan since 2010, and then buying the land from Mr Stone in 2015. It gives her belief that the premises is still a mobile home.

Miss Terena Daniels of Shedfield Parish Council

4.5 This suggests that there was not a caravan on the site in 2012, which is contrary to other evidence provided. The image referred to is not provided.