

**Planning Statement
Prepared by Christopher Ward BA (hons) LLM, MRTPI**

ON BEHALF OF

HEATHER WOODS AND GRAHAM SNAPE

Relating to an Enforcement Notice Dated 24th 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

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CONTENTS

- 1.0 INTRODUCTION**
- 2.0 THE FORMAL PLANNING HISTORY**
- 3.0 DOCUMENTS PROVIDED**
- 4.0 LEGAL GROUNDS OF APPEAL b) and d)**
- 5.0 ASSESSMENT OF DETAILS RELEVANT TO GROUND d)**
- 6.0 CONTRARY EVIDENCE TO GROUND d) – LPA and Mr Stone**
- 7.0 GROUNDS f) AND g)**
- 8.0 - GROUND a)**

APPENDICES

- Appendix HG 1 - -Copy of letter from WCC in June 2010**
- Appendix HG 2 - - List of Documents/Details relating to occupation of the Mobile Home prior to January 2011 (mainly prior to September 2010).**
- Appendix HG2a - Copy of documents 1-20 referred to.**
- Appendix HG3 - Summary of key corrections to GS Statement**
- Appendix HG4 - Internal view of similar Atlas Florida mobile home**
- Appendix HG5 - Photos showing works undertaken in 2017-2018**
- Appendix HG6 - E mail and photo Photos showing new concrete base**
- Appendix HG7 - recent photos showing underside of lounge floor.**
- Appendix LDC 1 LDC application, G Snape Statement and Appendices GS 1-12**
- Appendix LDC 2 LDC application, Decision Notice, Officer's Report and objection by Mr Stone.**
- Appendix HG1A photos by WCC 19.05.2010**
- Appendix HG1B photos by WCC 03.08.2010**
- Appendix HG1C photos by WCC 17.11.2016**
- Appendix HG1D Email from WCC summarising site visit in August 2010**

This Statement has been prepared by Christopher Ward BA (hons), LLM, MRTPI of BJC Planning on behalf of Graham Snape and Heather Woods (the appellants). It is based on materials passed to me by the appellants, viewable on the LPA website, or provided in initial correspondence with enforcement officers. On this basis I believe the claims and details set out in this document to be correct.

1.0 INTRODUCTION

- 1.1 The appeal is against an enforcement Notice dated the 24th September 2020 and two appeals were submitted by heather woods and by graham snape on the 23rd October 2020.
- 1.2 The appeal was confirmed as valid by the Inspectorate on the 14th 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 By letter dated 13th January the Inspectorate has advised that Mr Richard Stone has been granted 'rule six' status in relation to the and that the date for the submission of the Statements of Case for each party has therefore been revised to the 10th February 2021.
- 1.4 This Statement sets out the main case details for both appellants. It partially should be read alongside the original grounds of appeal, but some sections are repeated.
- 1.5 It should be noted that whilst this Statement will set out the history of the site and the facts relating to the caravan as accurately as possible, which will then be expanded upon in the proofs of evidence to be provided to the Inquiry, it is not known what approach Mr Stone will take in his Statement so it may be necessary to add details in response which have not been identified at this stage. Hence, in partial anticipation of what might be said, section 5 of this Statement will refer to comments/evidence given by Mr Stone to WCC as an objector to the S191 application determined on 10th September 2019 ref 19/01683/LDC). There are significant differences between the events and timescales as described by Mr Stone and by the appellants. In that context it is my belief that Mr Stone is frequently mistaken.

- 1.7 Whilst both Heather Woods and Graham Snape have appealed, it is likely that Graham Snape will give evidence on behalf of both himself and partner. This will be in relation to the history of activities and the works undertaken there. This Statement has been prepared by Christopher Ward based on information given to me, most of which is supported by documentary evidence. This has been done as a professional chartered planner, and provides my professional interpretation of the details referred to, and the relevance of this to understanding 'development' and what is lawful on site. I will also provide evidence in relation to planning policy issues for ground a). I will give evidence on these issues to the Inquiry, but not in relation to any personal knowledge of the appeal site prior to 2020.
- 1.8 As advised in the original Grounds of Appeal, some of the evidence to be provided and referred to will repeat details submitted with a S191 application in July 2019 (ref 19/01683/LDC) but other details may contradict this earlier evidence. Appendix HG3 lists the key differences. The details set out below will seek to identify where differences arise, and why a different approach is now being taken. This largely focuses on where new facts are available (see section 3) but also reflects my own interpretation of these. Where new or additional facts have emerged since the appeal was submitted, this statement relates to the details now available.
- 1.9 In preparing this Statement I have requested access to details held on the enforcement files of WCC, and been advised that most of these are confidential. Consequently, I may need to respond separately if details emerge later from these files that I have not seen. However, the Council has provided, 3 sets of photographs showing the site in 2010 (twice), 2016, and 2019, which are helpful in providing a factual record. It is assumed that these will be provided to the Inspector. I will refer to some of these photos in this Statement, and provide copies. It is hoped that this will save time debating issues which can be demonstrated more accurately in photographs.

- 1.10 It is anticipated that one issue that the Inspector will wish to consider is whether the accommodation on site is correctly considered as a use of land (namely as a caravan or the siting of some other mobile structure) or as a building. As this is important to establishing whether the 'four year' or 'ten year' rules apply section 4 (ground d)) sets out a summary of events on the site from 2010-2020, and addresses each scenario.
- 1.11 For potential clarity I will use the term 'Mobile Home' (MH) to refer to the original mobile home as it was brought onto the site, and when it met the definition of a caravan, prior to any significant modifications, but the term 'Accommodation' from the time that any significant external modifications were undertaken (commencing in 2013). It should be noted however, that there were significant internal works prior to 2013, commencing in 2010 (possibly late 2009)
- 1.12 Before considering the grounds of appeal, it may be helpful to the Inspector to have set out the formal planning history of the site as this will be referred to and may assist to place events in context. Hence this is set out chronologically in section 2 below

2. FORMAL PLANNING HISTORY

- 2.1 This section sets out the formal planning history, in so far as details are publicly available, or known to the appellants. As some of this relates to enforcement matters, for which there is limited access, the LPA are invited to correct any factual errors.
- 2.2 December 2008 -Appeal decision relating to Sunnybank (unclear of site boundaries) allowing an enforcement appeal on ground c) that the occupation of a former gym at Sunnybank by Mr Stone's daughter was not a separate dwelling but ancillary to the occupation of Sunnybank.(Mr Cox acting as agent for Mr Stone).

- 2.3 Enforcement investigation 2010 ref 10/00112/MIXED relating to the use of buildings at Sunnybank (on other land), the use of the mobile home, and a summerhouse.
- 2.4 2016 -Enforcement investigation ref 16/00294/CARAVN relating to a touring caravan on the appeal site.
- 2.5 2017 --Enforcement investigation ref 17/00186/CARAVN relating to two caravans on the site, one a touring caravan and the other a mobile home
- 2.6 29 January 2018 – enforcement investigation relating to two caravans, (one touring, one mobile home) – ref 17/00186/CARAVN (see GS 8)
- 2.7 2018 It is understood that an application was submitted for a mobile home on the site but not validated (due to legal issues re access) -ref 18/0094/FUL. Details no longer available as not validated.
- 2.8 Enforcement investigation 14 March 2019 ref 19/00068/CARAVN relating to the mobile home on the appeal site.(see GS 10)
- 2.9 15th March 2019 PCN served alleging unauthorised residential use of mobile home.
- 2.10 29 March 2019 -Mr Cox suggested the accommodation was no longer a mobile home.
- 2.11 5th April 2019 – revised PCN served relating to potential unauthorised dwelling (see GS12)
- 2.12 July 2019 - S191 (LDC) application for appellants– refused 10.09.2019 ref 19/01683/LDC
- 2.13 24th September 2020 – Enforcement Notice served

3. DOCUMENTS PROVIDED

Details submitted in 2019

- 3.1 It is relevant that the S191 application submitted in 2019 included substantial evidence from the applicants (the current appellants) about activities on the site, that is relevant to these appeals (and ground d) in particular), so these details are repeated and attached to this Statement. These details, for the applicants, included a 'witness statement' from Graham Snape and appendices GS1-12, and are referred to collectively as LDC1.
- 3.2. As the application was refused, the decision by the LPA, the officers report, and the comments submitted on the application by Mr Stone (the neighbour) are also relevant so are attached as LDC 2. The consideration of ground d) below will include consideration of both the details submitted and these responses, and consider what evidence or comment was provided to the contrary.

New Facts and Details

- 3.3 Further to the S191 application being refused, and the Enforcement Notice being served, the appellants have considered in more detail the events since 2010, and searched through all their available records to provide a more comprehensive history. This has revealed various errors in the details provided with the application, and specifically within the witness statement from Graham Snape. The most significant of these relates to the start date for the arrival of the caravan on site, the date of its occupation, and the date of the new patio doors, being installed. Mr Snape will correct these details in evidence, but the details described in section 4 below highlight the main errors.
- 3.4 As certain details require correction, and others reinforcement, Mr Snape will provide a revision to this statement in evidence to the Inquiry. A summary of key changes is set out in appendix HG 3.

4.0 THE GROUNDS OF APPEAL b) and d)

- 4.1 The details below take the grounds of appeal in alphabetical order, save for ground a) which is dealt with last.

Ground b)

- 4.2 This is relevant only to alleged breach ii) namely the change of use of the land from horticulture, and potentially only to part of the appeal site.
- 4.3 Appellant's Appendix HG 1 (provided with the grounds of appeal) is a copy letter from officers at WCC confirming that the mobile home that was on the land in June 2010 was sited within the curtilage of a dwelling. This is the same mobile home that has since been modified to provide the current accommodation, and sited in the same location. Hence it appears that in 2010 the Local Planning Authority agreed that part of the land surrounding and including the mobile home had a lawful use as the 'curtilage of a dwelling', and not horticulture. This land remains part of a residential curtilage, namely that of the appellants' home, 'The Greenhouse'. If this land was the curtilage of a dwelling in 2010 (effectively used as garden land) , then there has been no change subsequently, and planning permission is not required for garden land to pass from one dwelling to another. The land has not been horticultural for many years.
- 4.4 Appendix HG1A and HG1B are two sets of photos provided by WCC in response to a request in January 2020. These show the caravan on the land in May and August 2010. These also show the summerhouse in the old and new positions. The later set of photos have the same reference number as on the letter in June 2010 (see HG1).
- 4.5 Appendix HG 1D is a copy of a file note from WCC referenced 10/00112/MIXED which describes the officer's visit to the site and, in the final paragraph the observation that the summerhouse has been re-sited to within the curtilage of the dwelling and next to the mobile home. The paragraph

above advises that the mobile home is also 'just within the curtilage of the dwelling to the northern boundary of the site.

- 4.6 HG1B Photo 5 shows the summerhouse in its new position and Photo 7 the view looking back towards the caravan. It is clear that if this summerhouse was within the curtilage (as described by officers), then this included a strip of land in front of the mobile home, notwithstanding that no boundary is evident on these photos.
- 4.7 The summer house and caravan (since modified) are in the same location today, as accepted by WCC in 2010 to be within a (lawful) residential curtilage. Hence it is incorrect to describe this part of the appeal site as horticultural.
- 4.8 HG1A Photo 1 shows what is recognisable as a new hedge across the site, which appears to be the only boundary close to and on this (north) side of the caravan. It is suggested that this hedge provided the only means of enclosure and was therefore the boundary of any curtilage at that time. This is referred to again in relation to ground d). For information, it is understood that the existing hedge between Sunnybank and the mobile home (alongside the southern wall of the accommodation) was only planted in 2016, so did not exist in 2010.

Ground d)

- 4.9 As the Enforcement Notice addresses 2 breaches of planning control it is necessary to consider these separately.

ii) The use of the site

- 4.10 The second breach alleged is a change of use of the site to ancillary residential use and storage. As this relates to a 'use' of land then the appropriate time limit for ground d) is 10 years.

- 4.11 It is understood that the use described effectively relates to the appellant's use of the site as a 'garden'.
- 4.12 In relation to the larger site, the appellants will provide evidence in person that when they occupied the site in 2010, the former glasshouse showed no signs of having been used recently for horticulture. This was largely open, but did include various boxes of papers and other possible personal effects, which they were advised had been stored there, and which they were advised were connected with a rest home elsewhere on Gravel Hill. Most of the building was still covered with glass but with parts (at the northern end) damaged and overgrown.
- 4.13. The glasshouse has been used by the appellants as a residential greenhouse, hobby shed and general domestic/garden store since they moved to the site, more than 10 years prior to the Notice.
- 4.14 The hedge that is situated approximately 11.8 m from the MH was planted by the appellants in 2010 and was the extent of their useable garden area at that time. The young hedge is visible in the photo at HG 1A (photo 1) in May 2010, over 10 years prior to the Enforcement Notice. The land north of this was, in 2010 a field, and the garden has only been extended into this additional area within the last 10 years.
- 4.15 The appellants accept that they have not used all of the site in excess of 10 years, but both the area enclosed by the hedge, and the glasshouse, has been used by them as a garden and domestic store since early 2010.

i) The residential use

- 4.16 It is acknowledged that the Inspector will need to consider what the existing accommodation is, in terms of whether this is a use of the land, or a building. This will include, but not depend on, whether the accommodation is still a caravan and when any significant changes to the original caravan were made.

A summary of the changes made is set out below. This is followed by my assessment of how these changes impact on the planning status of what is there.

- 4.17 If the Inspector concludes that what is on the site is not a building but is a use of the land for the siting of a caravan or other moveable accommodation, then 10 years is also relevant to the use of the land for the siting of a caravan or moveable accommodation.
- 4.18 Appendix HG2 (provided with the grounds of appeal) refers to 20 items or documents that provide background details of the appellants lives in the caravan during 2010.
- 4.19 Items 1 and 3 on the list relate to payments made to Solent Beezes. This is the mobile home site on which Heather and Graham lived previously, and item 1 is the cost of removing the MH from that site, item 3 a final payment of moneys due.
- 4.20 Item 2 is a very brief email to Jane Foster (partner to Mr Stone) dated Wednesday the 10th February, and advising ‘ Just to let you know that the caravan is arriving with you on Saturday.’
- 4.21 These 3 items confirm the removal of the MH from its previous location, and the intended arrival date (Saturday 13th February 2010) at the appeal site.
- 4.22 Item 4 refers to 2 cash withdrawals totalling £350, which was the payment due to Clarke’s removals for transporting the MH to the site.
- 4.23 Items 6, 7, 10, 11, 16, and 20 provide details of cash withdrawals at approximate intervals of one month (May to October) which Heather Woods will confirm were used to pay the rent to Mr Stone/Jane Foster. For clarity, the rent payable in 2010 was £375 pcm plus £50 electric pcm. This increased in November 2013.

- 4.24 Item 8 has been provided and referred to above as HG1, and clarifies that a complaint had been received and investigated by WCC relating to the mobile home being present on the site by June 2010. The photos taken by WCC and provided in HG1A show the caravan here in May 2010.
- 4.25 Mr Snape will provide evidence in person to the Inquiry to confirm that it was their mobile home that was moved from Solent Breezes, that was placed on the appeal site in February 2010, that is shown in the photos in HG1A, and that remains in the same location. This is the accommodation that they have occupied as their home since that time.
- 4.26 All of the works that have been undertaken to the accommodation have been undertaken by Mr Snape (with some assistance), and it is his view that the entire 'structure' that comprises the accommodation would be capable of being moved, albeit not (since at least 2013) 'conventionally' and as normally undertaken for a caravan or mobile home. If this is the case, and agreed by the Inspector, then the land has been used as a location for the same mobile structure, albeit one that has been extended and that is no longer a 'caravan', for more than 10 years.
- 4.27 The appellant has recently received a quote for a crane operator to lift the accommodation and to move it (within the site), and this 'possibility;' is being explored further. Mr Snape will provide an update in evidence to the Inquiry.

Changes to the accommodation

- 4.28 The mobile home has been subject to a series of improvements ever since it came to the site, and some of which were undertaken before its arrival here (whilst at Solent Breezes). These changes, that result in the current 'accommodation' have included (but are not limited to) i) re-arranging/removing internal walls, ii) adding insulation to the inside face of both walls and ceilings, iii) replacing windows, iv) adding 70mm of insulation to the outside and enclosing this with new external cladding and v) adding a new

roof over the exiting (and removing the latter internally). Graham Snape will provide a timetable for these main areas of work in evidence. However, the following changes are especially important. Comments on the relevance follow.

Prior to and early 2010

- 4.29 The removal of a twin bedroom and toilet at the western end of the caravan, together with the internal walls, and adding insulation to the internal walls and ceiling to become part of the lounge. This work was started at Solent breezes and completed on the appeal site. Part of the new ceiling collapsed when moved, and needed to be re-fixed. Photo 4 in HG1B taken by WCC in August 2010 shows the new studwork on the end (west wall) of the mobile home, part way through the process of adding new insulation and new plasterboard being added. Photo HG4 attached shows the internal arrangement of an Atlas Florida Caravan identical to that on the site before these works were done. The wall to the end bedroom and fitted bench seating is still in place. Both have been removed in HG1B photo 4.

2010 -2013.

- 4.30 Additional changes made internally including the removal of original 'fitted' bench seating and beds, changes to the to shower room and new kitchen, a new window to the kitchen, new internal stud walls with insulation and plasterboard,

2013 (external changes)

- 4.31 Old twin entrance door removed (due to broken hinges) and replaced by double patio doors, that involved the removal of a significant section of the chassis and a (small) part of the wall of the MH. Details of what was removed are shown in GS2, and the new doors in GS5. It should be noted that photo GS 3 is an error and should be ignored. These works are important as it is believed that it is these works that lead to the caravan transport company (the same company that brought the mobile home to the site in 2010) advising in 2015 that they could no longer move the Mobile home off the site (GS6). GS

7 is a letter from a firm specialising in vehicle body repairs, advising that they were unable to repair the structure so that it would be possible to remove it as a complete unit.

2013 onwards

- 4.32 Internal works continued with additional internal stud walls and insulation, new plasterboard, replacement double glazed windows and air source heat pump (part external). These works collectively added to the weight of the caravan and, together with the removal of some internal (bracing) walls, reduced the ability of the (partial remaining) chassis to support the accommodation.

2017-2018

- 4.33 In the autumn of 2017 a new external skeleton was added to the accommodation, comprising of the following elements.

a) a new ring beam added below the walls of the accommodation, with a new wall plate at the top of the walls and new upright studs between the two. These studs extended above and below the existing roof and walls respectively.

b) new roof trusses constructed between the top of the upright studs.

c) new ring beam increased to 300mm depth (12"), supported on 20 new decking stands (supported on concrete blocks). This then carried the weight of the accommodation including new walls and roof.

d) roof insulated, felted and covered in profiled tile sheeting.

e) walls insulated , felted, and covered with either profiled sheeting or timber cladding.

- 4.34 **Dec 2017** concrete slab laid at east end for bedroom. Existing ring beam extended for new bedroom, walls pre-fabricated and fitted between ring beam

and roof (already extended as per 4.35) ,bedroom floor joist fitted between wall studs. Roof and walls finished externally as described above.

- 4.35 Appendix HG 5 shows a set of photographs illustrating these works.

2018

- 4.36 The works described above were completed by April 2018.

April 2018

- 4.37 Para 16 of the Statement from GS advises that in May 2018 the remainder of the lounge floor was lowered, which involved the removal of another large section of the chassis. Additional details will be provided and the Inspector invited to look beneath the floor at the works involved. In simple terms this involved the removal of the original floor and remaining original chassis (under this part), the laying of a new concrete slab, and the provision of a new suspended timber floor constructed above the concrete slab, supported off both a new/extended ring beam under the side walls, and blocks/supports above the concrete. The chassis had been removed and concrete laid by the 24th April 2018 and the new floor constructed soon after. Appendix HG 6 is a copy of an e mail dated 24th April showing the new concrete slab, on which it is clear that the chassis and original floor had been removed. The new concrete was waiting for a new floor to be added above.
- 4.38 These works extended over a much larger area than the initial removal of a small part of the floor to allow for the new doors, but continued the work initially done. Photos on HG7 show the same concrete slab as in HG6 with the new floor constructed above.

5.0 ASSESSMENT OF THESE WORKS, AND IMPLICATIONS FOR THE STATUS OF THE ACCOMMODATION AS A USE OR A BUILDING.

5.1 Whilst there is little doubt that the mobile home that arrived on site in February 2010 was a caravan (as defined), this has subsequently been altered quite substantially so requires consideration of what is there now. The Enforcement Notice refers to a building.

5.2 It appears to me that there are three potential alternatives.

a) that the accommodation on site is still a (caravan) mobile home, capable of being moved.

b) that it was a mobile home until a time between 2013 and 2018 but the works undertaken in 2013 or before 2018 mean that it ceased to be 'caravan' but what remains is still mobile and a potential use of the land.

c) that the works in 2013 or before 2018 meant that it became a building in 2013 (or later).

These are considered in turn below.

Option a) that the accommodation on site is a caravan/mobile home, capable of being moved.

5.3 Many of the internal changes made between 2010 and 2013 had a significant impact on the structural design of the original mobile home, which can be described in more detail by Mr Snape. However, the works in 2013 involved external changes and more importantly to the chassis.

5.4 Having regard to the diagram showing the chassis of a mobile home in GS2, it is clear that the body of the caravan above is supported on a rectangular steel frame (inset from the walls) comprising of two longitudinal steels (actually

two beams cross braced vertically), across which are laid additional steels that support the floor above and the walls beyond. The picture below shows the 3 dimensional view of one (part of one) steel, with its upper and lower sections and bracing between. The diagram shows in addition the supports that need to be added when the caravan is installed on site, with this steel frame supported on either side of the wheels (concrete blocks and packing) and on axle stands close to the four corners. The lightweight structure of the caravan body above provides some additional strength and rigidity.

- 5.5 The removal of part of one side to the rectangular frame (as shown in the lower diagram and photo) means that the entire right-hand (west) end of the caravan would be supported by one longitudinal steel (offset to one side), and that there would be no support to one end of two of the floor beams. Hence approximately 30% of the mobile home would be supported on just one side. It is no surprise to me that Clark's declined to move this (GS 6).
- 5.6 The definition of a caravan includes the requirement that the structure '***is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)***'
- 5.7 This had ceased to be the case by 2015, as evidenced by GS 6 and 7, and this evidence appears to be accepted by the LPA. The changes that impacted on this were made in 2013. Hence it appears that from 2013 the accommodation had ceased to be a 'caravan'.
- 5.8 If the changes in 2013 did not impact on its status as a caravan, it is likely that the changes in 2018, to extend this at the eastern end, did take the accommodation outside the definition of being a caravan, as this part was not one of two parts brought to the site and joined together, but was constructed on site.
- 5.9 If it was no longer a caravan by definition after 2013 then either c) it became a building, or b) it became a 'mobile structure' (possibly a mobile home outside

the definition of a caravan) on the land, that could be moved but not as a caravan. Both are considered below.

b) that it was a mobile home until circa 2018, but the works undertaken in 2018 mean that it ceased to be a 'caravan, but was still a mobile structure.

- 5.10 It is pertinent that Graham Snape has always intended that the accommodation would remain 'mobile' such that none of what is there is fixed to the ground, but supported on an elaborate ring beam, that is itself supported by approximately 20 jacks/props.
- 5.11 The appellant will provide a set of photographs showing that there are no permanent fixings between the accommodation and the ground beneath (except for service connections) but that the accommodation sits on a large ring beam that extends all around the sides of the accommodation, with various cross members between. These are all supported on a large number (approximately 20) plastic or metal jacks or wooden props/wedges, plus the original wheels (in part) all of which would be necessary to remove and replace with a lifting device to actually move the accommodation. This would not be impossible, but would be a very extensive operation. The appellant has received a quote to do this which is being considered further.
- 5.12 The evidence now available demonstrates that the mobile home came to the site in February 2010, and was occupied very soon after. Hence this mobile home has been on the site for 10 years by the end of February 2020, and for approximately 10 years and 7 months by the date of the enforcement notice.
- 5.13 it is acknowledged that the mobile home was enlarged during this time, and became less mobile but, if it is not a building then it remains as a mobile structure and a use of the land, that has existed for over 10 years. Unless it is suggested that there is a material change of use from the siting of a (medium) mobile home to the siting of a larger, less transportable, but still a moveable

(and hence a use of land), then the use is now immune from enforcement action.

c) that the works in between 2010 and 2018 meant that it became a building in 2013 (or later).

- 5.14 This is the option that seems to be favoured by the Officers advice and by the decision notice on the S191 application. Specifically the LPA suggest this change occurred in 2018.
- 5.15 If the Inspector is minded to reject that the accommodation could be moved (albeit not as a caravan) it is necessary to consider whether it is or is not a building. The appropriate case law is summarised on page 2-3163 of the Encyclopedia of Planning Law, and refers to the three primary factors established by *Skerrits of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (No 2)*. ([2000] 2 PLR 102). These factors are size, permanence and physical attachment.
- 5.16 **Size** -In terms of size the accommodation in 2013 comprised the adapted shell of the mobile home 35 ft long and 10ft wide (approximately 10.7m x 3m). This is substantially larger than many buildings. Whilst the guidance refers to a building being something normally constructed on site, by 2013 the accommodation had been substantially changed internally, including the removal of many original 'structural ' components and other internal work. In 2013 these changes then included the fitting of a (larger) external door and consequent changes to the chassis (part removal).
- 5.17 Tthe accommodation following modification in (and prior to) 2013 (when it ceased to be moveable as a caravan) was substantial in size. Any other structure of this size, would normally constitute a building, and many smaller ones. Although the accommodation was extended in 2017- 2018, it is unlikely that this increase in size (of 3m) would be a dividing line between a building and not a building. Hence if it was a building because of its size after 2018, it

was, very likely, a building before 2018, and from the moment that it ceased to be a caravan or mobile home (in 2013).

- 5.18 **Permanence** – In 2013 the accommodation had been in the same place on the site since February 2010, so for over 3 years, giving it a high degree of permanence. By 2021 the accommodation created in 2013 has been on site for approaching 8 years and the overall structure 11 yrs, without being taken down or moved. It has been far more ‘permanent than the marquee discussed in Skerrits.
- 5.19 **Physical attachment** – The advice provided in GS 6 and GS 7 suggests that when examined in 2015 it was considered very difficult/ impracticable to move what had existed on site since 2013 (by normal methods). This suggests that there was a high degree of attachment to the land. Whilst the works undertaken do not include any substantial works actually attaching it to the land, it is noted that in Barvis, the tower crane was considered to be a building, notwithstanding that its only attachment was that it ran on rails. If a similar or greater degree of attachment exists, it has done so since 2013.

Overview

- 5.20 In my view when considering whether this is or is not a building the size and longevity of the accommodation being present on the site would not preclude it from being a building, or a use of the site, and the key consideration is its degree of attachment or otherwise. In this context the accommodation ceased to be sufficiently mobile for it to be moved ‘conventionally’ as a caravan in 2013. However, it is not attached to the site other than by some 20 adjustable feet/props, and could potentially be moved with appropriate lifting gear.
- 5.21 Based on this analysis it is my view that the alterations to the accommodation both to the internal layout, starting in 2009/2010, and to the structure itself in 2013 mean that this was no longer a caravan as defined by The Act, but was, more importantly, a building from that time forward, albeit one that has

subsequently been altered further and later extended. However, the alternative view that it remains a mobile structure is plausible. If this is a building, then this has existed since 2013. If it is a mobile structure, then this accommodation has existed on site since 2010. The extension added in 2018 does not affect the lawfulness of what was there previously, and still remains.

6. CONTRARY EVIDENCE RE GROUND D)- AS SUGGESTED BY THE LPA AND BY MR STONE

The Local Planning Authority

6.1 Although the LPA refused the S191 application, it appears from the Officer's Report (Appendix WC 1) that the LPA accepted the details provided by the applicants and that its rejection focused on the interpretation of this information. The key elements of this appear to be:-

i) that the works undertaken in 2013 are not supported by adequate information, but it is accepted that these works undermined the structural integrity of the MH such that the structure was then unsound and not able to be removed without breaking apart.

ii) the works (in 2013) to the entrance area did not alter the nature of the structure from being a mobile home to that of a building.

iii) the fact that the mobile home could not be moved does not relate to the degree of permanence of the structure.

iv) works undertaken up to 2015 were internal works and not material operations.

v) Some material works were undertaken in May 2018 (the lounge floor dropped and extension added), which are materially greater and tilt the balance towards this probably becoming a building in 2018. These works are

not immune from enforcement action. The mobile home remains as such. This has been in situ since 1 January 2011.

vi) On the evidence provided, the works in 2013 did not result in the mobile home becoming a building. The four year rule does not apply, and the mobile home remains on site subject to the 10 year rule for immunity, as a change of use. It does not satisfy the 10 year rule.

- 6.2 The decision notice reflects the same rationale, but focuses on the failure of the application to satisfy the four year rule, suggesting that this was considered to be a building/dwelling and that although the works in 2018 'have a bearing on the permanency of the mobile home', these had not been in situ for 4 years. Hence the key issue, for the decision maker, was whether a building existed prior to 24th September 2016, (based on works prior to that.
- 6.3 As the Officers report, and decision notice, both refer to Measor, this is addressed briefly below. However, the applicant does not rely on any suggestion that the accommodation became a building because it was no longer a mobile home, but on consideration of the three tests set out in Skerrits, namely i) that from 2013 onwards the size of the accommodation was capable of being considered to be a building, ii) that the accommodation had, in 2019 been on the site for 9 ½ years, so had a high level of permanence, and that its attachment, whilst lacking physical anchors, nonetheless was substantial and no less so that the tower crane considered in Jarvis.
- 6.4 If however, the Inspector takes the view of the Council in its report and decision. that there is a need for physical anchors, then the accommodation can be considered as a structure that is mobile, is capable of being moved (but not as a caravan) and is a use that has been on site for over 10 years. The council is not necessarily criticised for not taking this view, as the application did apply for the use as a building.

Measor

- 6.5 I have referred to the references by the LPA to Measor above, so address the issues relevant now.
- 6.6 The decision predates Skerrits of Nottingham but refers to the tests in Barvis Ltd and R v Swansea City Council which established the three tests that Skerrits then affirmed, namely that the 3 primary factors in determining what is a building are size, permanence and physical attachment. These are the three tests that were then applied to the 15 caravans, including two statics, which had been occupied for between 2 months and 4 years, and to which no services were connected. There is no similarity with the appeal site.
- 6.7 The main issue tested in Measor was whether the reference to a 'structure' when used within the definition of a caravan, had the same meaning as 'structure when used in S 55 of the act and synonymous with 'building'. In brief the courts held that this was not the case, but that that a mobile home would generally lack the permanence and attachment necessary for a building, and on the facts of the case the Inspector was right to reject this.
- 6.8 Whilst not irrelevant, it is suggested that the applicants did not seek to suggest that their mobile home was a building, on the basis of the challenge in Measor, but due to the works undertaken and its longevity on site. Whilst the application was refused, it is noted that neither the officer's report, nor the decision, explicitly consider size, permanence or physical attachment.

Objections raised by Mr Stone (and partner)

- 6.9 This section addresses the objections that were made by Mr Stone to the S191 Application. These are not addressed specifically within the officer's report, but as Mr Stone has been made a rule 6 party then it is appropriate to consider what issues he may bring to the Inquiry. The appellant may respond more fully when his statement is received.

- 6.10 The main objection/evidence presented by Mr Stone is set out in an objection submitted on line, which is included in Appendix LDC 2.
- 6.11 It is pertinent to advise that Mr Stone owns Sunny bank and owned the appeal site until 2015. He rented the land to the appellants until 2015, when he sold it to them. He has subsequently objected to the accommodation being on the site.
- 6.12 The comments below respond to what are believed to be factual inaccuracies in the objection of Mr Stone. The comments referred to are each indexed on the copy of the objection in Appendix LDC 2.

A) Mr Stone states that the caravan was brought onto the land in December 2010 and occupied from January 2011. This is inaccurate as shown by the 20 items listed in HG2 and by the photographs by the LPA of the caravan on site in May and August 2010. The internal photos of the mobile home show the appellants' furniture, some of which still exists in the accommodation.

B) the photographs dated 19.05.10 and 03.08.10 show that the Mr Riding (for WCC) visited the site twice. This is in response to a complaint about activities at Sunnybank and it appears that WCC wrote to the owner of Sunnybank, and then met with Mr Cox acting on behalf of that owner (Mr Stone). Any information given to the Council was provided on behalf of the owner. The appellants will provide confirmation of their lack of involvement in those meetings. The photos on pages 1-3 of Appendix HG 1B appear to have been taken at the same time and show accommodation elsewhere within the grounds of Sunnybank, which would only be accessible with Mr Stones assistance. The file note summarising the meeting with Mr R Riding attached as Appendix HG 1D confirms the meeting, and that this started with an inspection of Mr Stone's gym. The officer would not have inspected this building unless satisfied that the agent was acting for the landowner (Mr Stone).

C) The appellants were not present at the meeting. Photo 4 in HG1B dated 03.08.10 shows the inside of the lounge and includes a number of toys. These are possibly the toys referred to by Mr Riding in his file note (HG 1D) where he refers to this being a playroom. Whilst the furniture is owned by the appellants, these toys were not.

D) Rent was paid as confirmed by the details provided in Appendix HG 2.

E) If there was any deceit then this was on behalf of Mr Stone and not the appellants.

F) This is confirmed, see planning history

G) The issue of concealment is outside the scope of this appeal, but please note that Mr Cox did not act for the appellants until 2017/18.

H) Mr Stone expresses great certainty about there being no work to the doorway or lounge floor of the accommodation until the 26th May 2018 and the following two weekends, this being a very notable date for him. This evidence is wrong on several levels.

- Firstly the photo attached to the e mail dated 24th April (HG 6) shows the new concrete base after the whole of the metal chassis had been removed. There was no metalwork to cause sparks on the 28th May. Mr Stone is incorrect in relation to when most of the floor was removed.

- Secondly, he suggests that this whole activity was undertaken in one step, which Mr Snape will refute.

- Thirdly, photographs taken by the Council on the 17th November 2016 (when investigating a touring caravan located within the glasshouse), show the accommodation with the new doors in position, confirming that this work was undertaken prior to 17th November 2016. Mr Stone is incorrect to say it started 6 months later.

I) Mr Snape believed the accommodation to be moveable until inspected by Clark's and then by South Coast Body Repairs in 2015. He still believes it could be moved, but not by conventional means.

J) Both companies are very likely more qualified than Mr Stone to make these judgements.

K) the photographs referred to show the new doors in November 2016.

L) These dates are incorrect.

6.13 Having considered Mr Stone's facts as set out, and compared these with other details, it appears that Mr Stone is factually incorrect on several occasions.

6.14 Mr Cox was the agent for the application and responded to the objection from Mr Stone.

6.15 As a comment, it appears that the evidence provided with the CLU is largely supported by the additional information now provided, and that the errors in the original details provided by GS all give dates later than these events actually happened on site. In contrast, Mr Stone suggests dates even later, which are wholly inaccurate.

6.16 It is unclear what if any consideration was given to this objection by Council officers, as this is not referred to in the Officer's report, but it appears that many of the reference dates provided can be disproved based on evidence already held on Council files.

7. OTHER GROUNDS OF APPEAL (f) AND g))

Ground f)

7.1 Section 5 of the Notice sets out 4 steps that are required for compliance. These may be varied depending on what the Inspector determines as facts.

However, on the basis that the WCC concluded in June 2010 that the lawful use of the site was as garden land, on which there was a mobile home which could be used for purposes ancillary to a dwelling, the requirements to remove all trace of a mobile home, and other items unrelated to horticulture, is incompatible with reinstating it to its former (June 2010) condition. Such requirements would effectively extinguish the use previously considered by the City Council to be lawful.

- 7.2 Notwithstanding this previous (lawful) use, the state of the glasshouse is testament to the fact that this structure has not been used productively for many years and that any former horticultural use is no longer viable.
- 7.3 The Notice needs to be amended to reflect at least the previous lawful use of part of the site as garden land, including the ability to retain a mobile home (caravan) as ancillary accommodation to that use. Further enquiries are being made about the former uses of the glasshouse (pre 2010).

Ground g)

- 7.4 The appellants have lived on the site since 2010. They first moved into a caravan at Solent Breezes when their previous home was compulsory acquired by another LPA, and moved here from Solent breezes when the site owners made changes to that site. Both are approaching retirement. Consequently, the only option of alternative accommodation is likely to be another mobile home on another site. Heather has health issues. In such circumstances it would be difficult and possibly impossible to find and acquire another site within 6 months, and additionally to then remove all trace of their occupation from the appeal site.
- 7.5 the appellants are likely to provide further evidence to the Inquiry on the difficulties of locating alternative sites.

8. THE GROUND A) APPEAL AND PLANNING MERITS

8.1 The reasons for issuing the Notice refer to the breaches of planning control, to the refusal of the application for a Lawful development Certificate, and to the belief that the structure on site became a dwelling in 2018 (prior to which it was a caravan).

8.2. In this context it is alleged that both the dwelling on the site and the residential use of the land are in conflict with policy MTRA 4 of the Winchester District Local Plan Pt 1 (WDLP 1). No additional details are provided, suggesting that this is an objection to the principle of the use, with no identified concerns relating to other factors such as character, landscape or amenity considerations.

The principle of development

8.3 MTRA4 is a restrictive policies, applied across the whole of the land identified as countryside which suggests that all development is unacceptable except for 4 that are bulleted, namely i) development with an operational need, ii) the reuse of rural buildings, iii) the expansion or redevelopment of rural buildings (for business purposes), or for low key tourism. None of these apply to the site.

8.4 However, the list of 4 set out in MKTRA4 is not the full story, as other developments are also acceptable, with clear examples being commercial and educational establishments (as permitted by MTRA5) and sites for gypsies, as permitted by CP5.

8.5 In a wider context, the WDLP 1 also recognises the need for housing in the countryside, and whilst these provisions are limited, they are not irrelevant.

The general provision for housing.

- 8.6 The Council's overall approach to housing is set out in chapter 7 of the WDLP 1, and generally follows a hierarchical approach, with most development directed towards larger settlements, plus new allocations. This includes some housing in rural areas. The more specific approach to rural housing is set out in chapter 6 of the WDLP 1, with the policies MTRA1-5 designed to deliver that strategy. This strategy allows for small scale housing in small rural communities, where sustainable. This strategy will be considered further in evidence.
- 8.7 It is noted that the housing policies in the plan do not contain any provision or guidance relating to sites for mobile homes. Consequently, if the appellants were to be required to find an alternative site, the development plan does not provide a supply of such sites.
- 8.8 The appellant will consider other sites (including any that the LPA may suggest) and comment on these as part of the appeal.

Sustainability and general environmental considerations

- 8.9 The Inspector will note that the appeal site is situated adjacent to a site for gypsies, that was subject to a planning application in 2017. Such sites are addressed by Policy CP5 in chapter 7, which focuses on the needs of gypsies and travellers and is a criteria based policy, setting out how sites will be considered. Notwithstanding the specific need for such sites, It is reasonable to expect that such a policy contains all the criteria necessary to assess all the impacts of development on its surroundings, and especially the suitability of a site to accommodate one or more mobile homes, without an unacceptable environmental impact. Hence brief reference will be made to the issues considered when determining development on the adjoining site.
- 8.10 Notwithstanding any views expressed in relation to the adjacent site, a separate assessment will be provided of how the development on the appeal site may impact on its surroundings.

Nitrates

- 8.11 The current situation is that currently any dwelling erected within the drainage catchment of the Solent will discharge nitrate to the Solent, and contribute to the cumulative adverse effect, and hence be unacceptable. This means, in theory, that no housing can be allowed unless mitigation can be provided, with the normal method being to offset nitrates produced by taking farmland out of production elsewhere. WCC does not yet have an approved site for such mitigation, so currently will only grant planning permission if this includes a grampian style condition, preventing mitigation until mitigation is provided. It is understood that the City Council is currently exploring options, and this may provide a solution prior to determination of the appeal. Meanwhile, the appellants are considering other 'private' options.
- 8.12 Notwithstanding any measures to address nitrates, it remains a matter of fact that the appellants have occupied the appeal site since February 2010, which has included the discharge of sewage. Hence, the grant of planning permission would not result in the additional discharge of nitrate that has not occurred since 2010, prior to nitrate levels in the Solent becoming a (quantified) concern.