

APPEAL by Mr Shaun Manning

**against the Enforcement Notice
issued on 25th October 2022 by
Winchester City Council**

re

**Land at Four Acre Stables, Clewers Hill,
Waltham Chase, Southampton SO32 2LN**

Grounds of Appeal

presented by

Robert Tutton BSc (Hons), MRTPI.

Robert Tutton

Qualifications: Bachelor of Science (Honours) Degree in Town and Country Planning awarded by the University of Aston in Birmingham.
Member of the Royal Town Planning Institute since 1976.

Experience. Has worked in the town and country planning field for fifty-seven years, of which nine were spent with Portsmouth City Council (1965-74) and fifteen with Fareham Borough Council (1974-89) in several senior positions, including Chief Forward Planning Officer and Chief Development Control Officer. Has been a Town Planning Consultant in private practice since July 1989 and a Director of Robert Tutton Town Planning Consultants Ltd since January 2008.

Is familiar with the provisions of adopted and emergent planning policies for the Waltham Chase area and has visited the appeal site and its environs on several occasions since first being instructed by Mr Manning in September 2019.

TOWN & COUNTRY PLANNING ACT 1990
Section 174

APPEAL by Mr Shaun Manning against the Enforcement Notice issued by **Winchester City Council** on 25th October 2022 in respect of three matters, namely (i) the making of a material change of use from equestrian use to residential purposes through the stationing of a mobile home; (ii) the erection on the land of outbuildings, kennel, sheperd's hut, solar panels, play equipment, trampoline, vehicles and storage containers; and (iii) the laying of hard surfacing to facilitate the stationing of a mobile home and the developments described in (i) and (ii) above - all this on land at Four Acre Stables, Clewers Hill, Waltham Chase, Hampshire SO32 2LN.

Winchester City Council's reference: 19/00281/COU
Statement of the Appellant's Case

1.0 THE APPEAL SITE and its environs.

1.1 'Four Acre Stables' is situated in the southeast sector of Winchester City Council's administrative area, on the north side of a single-width private gravel drive ('the lane') that leads northwest from Clewers Hill in Waltham Chase for 350 metres before turning west for another 250 metres. On the southwest corner of the lane at Clewers Hill, the substantial barn on 'Woodlands Yard' has walls of red brick and horizontal boards and is topped with a 'crown' roof of slate; a mobile home stands behind (**Appendix 1**). Just before the bend in the lane, the stable blocks and mobile home of 'Bonichase Stables' are open to view. Immediately to the west, a bungalow forms part of the 'Borderhill Stables' complex and more stables stand opposite, in 'Bumbles Yard'. Fifty metres to the west, the vertical-boarding and wooden gates of 'Penny Acres' are an effective screen around its stables and its yard. With the stable block and mobile home of 'Lane End' as terminal features, it is clear that the area about the appeal site is characterised by stables, equestrian uses, agricultural buildings and their attendant dwellings in a variety of formats and plot sizes.

1.2 The appeal site lies below the level of the lane, so the vertical-boarding and wooden gates on its south boundary combine to afford security and screening, in similar vein to 'Penny Acres' opposite. Semi-mature trees between the lane and the boundary fence play a part in foiling impressions of the buildings and uses upon it. A modest outbuilding at its southeast corner contains a freezer, washing machine and tumble-dryer to serve the dwellinghouse that stands to the east of the access gate. A pair of stables stand near the south boundary of the site west of the gate, one of which houses 'Teddy' - as Shaun Manning has explained, "*Teddy is my granddaughters' piebald cob; he suffers from laminitis and requires attention around the clock, which means rotating his feeding schedule ie moving paddocks, bringing in and out of the stable, the constant need for exercise and cleaning and checking hoofs regularly throughout the day...Teddy is ridden by my two granddaughters 4-5 times a week.*" Hay and horse-feed are stored in two containers to the west of the stables while, to their east, a cage/kennel combination (it was brought to the site in May 2017) houses the guard-dogs, a Rotweiler and a Lakeland Terrier. To the north of the kennel stands a shepherd's hut that is moved about the site on wheels and used as a mobile play-house by Shaun Manning's five grand-children when they visit. Some 80 metres further into the site is a modest array of (8) solar panels which are used to generate electric power for the site. Two items of children's play equipment (a trampoline and a climbing frame) have been removed from the site since the service of the Enforcement Notice.

1.3 A Luton van and a transit truck are used by Shaun Manning for his work with Allstar Waste. In response to Robert Tutton's enquiry, Shaun Manning explained how his business operates day-to-day:- "*I receive an enquiry via email, phone call or tex message...I use my transit truck or Luton van visit the job site...I survey the job...I provide the customer with a quotation...I visit the job site and carry out the waste removal...I then take the waste to a registered waste disposal site...If the tip is closed ie "the job is carried out toward the end of the day or the weekend", then waste will come back to the premises but will remain on the truck or luton until*

the following morning, when it can be disposed of.”

1.4 In response to Robert Tutton’s enquiry “*Why do you need to live on the land?*” and “*How was the mobile home brought to the site?*”, Shaun Manning replied “*In May 2017 me and Debbie moved to Four Acre Stables as it was all we could afford and we couldn’t afford a mortgage to buy a house...The mobile home has been on the site since the time when the land was owned by John & Sandra Weight; they lived here between 1992-2015...Marissa Hunter bought the land and mobile home from them in 2015.*”

2.0 RELEVANT DECISIONS

2.1 Planning permission 19/02474/FUL was granted by Winchester City Council in January 2020 for “*Retention of eastern stable block*” at Four Acre Stables. ‘WCC Landscape’ were consulted and recorded “*No in-principle objection to the retention of the stables.*” With regard to “*Impact on Property and Character area*”, the Officers’ Report which led to that decision recorded that “*The area is noticeably equestrian in nature, with paddocks and stables along the lane that leads to the site and further on...The building is situated behind the existing mature hedge and tree boundary that effectively screens the building from the lane and surrounding area...It is not considered that the proposal would have a detrimental impact on the surrounding countryside.*” The comment made by Pat Staples of ‘Woodlands’ at Clewers Hill is also considered noteworthy:- “*I would draw attention to the fact that when this particular caravan was brought down the track to Four Acres, it had to come on its own wheels, drawn by a Land Rover...This is because the turn on to the narrow track from Clewers Hill is too sharp for any long low loader vehicle...I want to ensure that at no time any damage will be done to boundary fence, hedge, trees, gates and gateposts of Woodlands, by attempting to enter the track with a vehicle, trailer or caravan that is too long or too wide for it.*”

2.2 Application 19/02581/LDC was made to Winchester City Council on 11th November 2019 for a Certificate of Lawful Development in respect of the “*Existing use of former mobile home as a dwellinghouse*”, supported by the Declarations of three witnesses. Marissa Hunter recalled that there was already a mobile home on the land when she bought Four Acre Stables on 4th November 2015 but it had not been used for residential occupation; as it was in a dilapidated state, she brought a second mobile home onto the land on 7th November 2015, immediately commenced her residential occupation of it and, three days later, rendered it immobile by removing its A-frame and wheels. Shaun Manning recorded that he and Deborah Manning had bought Four Acre Stables from Marissa Hunter on 30th May 2017 and the former mobile home has since been continuously occupied by them as a dwellinghouse. Wendy Broughton recorded that she and her husband David Broughton have owned ‘Lane End’ (immediately to the west of ‘Four Acre Stables’) and keep three horses on the land - caring for her charges required her to visit Lane End at least twice a day, so she has been able to appreciate the comings and goings that confirmed continuous residential occupation of the former mobile home that stands on ‘Four Acre Stables’. Section 6 of the 1App form asserted that “*The Declarations of the three reliable witnesses comprises robust evidence that conversion of the ‘red’ mobile home to the west of Clewers Hill to a dwellinghouse was completed on 19th November 2015 and that, as over four years have since passed and no pre-existing Enforcement Notice is in place, said dwellinghouse should now be recognised as being lawful.*” On 20th January 2020, the Service Lead (Legal) recorded that “*...the local planning authority is not satisfied on the basis of the submitted evidence that there has been a breach of planning control consisting of the (a) carrying out of building works which have resulted in the conversion of the mobile home to a building...that have been completed more than **four years** before the date of this application; and (b) change of use of a building to a single dwellinghouse that took place over four years before the date of the application*” (emphasis added). There is no Officer Report on the City Council’s web-site to explain/justify the decision that was made.

2.3 Application 21/01896/LDC was made to Winchester City Council on 13th July 2021 for a Certificate of Lawful Development in respect of the “*Existing use of former mobile home as a*

dwellinghouse,” supported by the Declarations of two witnesses – Wendy Broughton and Shaun Manning. While the Service Lead (Legal) recorded a refusal on 15th February 2022, the *reason* for the decision differed from that which had been issued in January 2020 - “*The Council is not satisfied on a balance of probabilities that (1) The mobile home on the Land constitutes a ‘building’ as defined under the Act; (2) The change of use of the land to use class C3 residential has taken place continuously for a period of **ten (10) years** prior to the date of this application*” (emphasis added). It is particularly noteworthy that, between January 2020 and February 2022, the test of lawfulness increased from four years to ten. To appreciate the reason for the change, the Officer’s Report which led to the decision has been scrutinised (**Appendix 2**); these extracts are considered noteworthy:

“The applicant claims that the mobile home was converted into a building and that the use of the building as an independent residential dwellinghouse commenced on the Land at least four (4) years before the application was submitted.”

“The Leading common law precedent which sets out the test for determining whether a structure is a building or not for the purposes of the definition of ‘building’ in the Act is: *Skerrits of Nottingham Limited v The Secretary of State for the Environment, Transport and the Regions, Harrow London Borough Council (2000).*”

“A Council enforcement officer conducted a site visit on 4 August 2021 to determine the nature of the structure (mobile home) on the Land and to evaluate whether the structure could as a matter of fact constitute a ‘building’ as defined in s336 of the Act....The material observations and facts assessed by the officer are:...“The wheels and A frame have been removed but the mobile home is still physically capable of being moved in one piece...There is no evidence to indicate this is not the case...The officer took photographs of the structure from outside, inside and beneath...The mobile home was not observed to be permanently fixed to the ground and, upon consideration of all the facts and circumstances, was determined to still be moveable and falling within the definition of a ‘Caravan’ under Part 111 of the Caravan Sites Act 1968.”

“Inspector K R Saward (Solicitor) stated in an Appeal decision dated 17 August 2017 (Ref: APP/G2245/X/16/3160695) regarding the question of when a mobile home remains mobile, relating to land at Hazen, Button Street, Swanley BR8 8DY:“If a caravan/mobile home remains mobile then the likelihood is that a use of land is involved. Mobility does not require the caravan to be mobile in the sense of being moved on its own wheels and axles...It is sufficient that the unit can be picked up intact (including its floor and roof) and put on a lorry by crane or hoist...In Carter v SSE7 it was held that the transportation criterion applied to the whole caravan structure and not to its component parts...It was accepted in that case that the stationing of a mobile home, without wheels, which satisfied the definition of a caravan in section 28 CSCDA would not amount to a building operation.”

“After considering the applicant’s evidence, the Council’s own evidence gathered from a site inspection and all of the relevant facts and circumstances, the Council has determined that the mobile home on the Land remains a mobile home and does not constitute a building under s336 of the Act...Therefore the change of use of the Land from mobile home to residential (Use class C3) is subject to the 10 year rule and would need to continue uninterrupted until 30 May 2027 to establish a lawful change of use on the Land...The certificate of lawfulness for existing use and/or development is therefore refused.”

2.4 The appellant Shaun Manning had declared that, when he and Deborah Manning bought ‘Four Acre Stables’ from Marissa Hunter in May 2017, there was already a mobile home on the land - it had no wheels or A-frame. Save for an outside portaloo, the mobile home was fully equipped with all the services and facilities of modern living – fitted kitchen, bathroom, bedroom, living room (with log-burner) and a generator for the shower. Mr Manning recalled his installation

of a septic tank in the grounds in June 2017. In response to Robert Tutton's recent enquiry regarding the "caravan hardstanding", Shaun Manning asserted that *"There is no and never has been additional hardstanding laid for the purpose of the static home...We utilised the existing hardstanding, the only further materials in the ground is concrete blocks which chains are attached to, which then attached to the caravan."*

3.0 THE ENFORCEMENT NOTICE

3.1 The Enforcement Notice issued by Winchester City Council on 25th October 2022 alleged *"Without planning permission (i) The making of a material change of use of the land from an equestrian use of the land for residential purposes through the stationing of a mobile home...(ii) The erection on the land of outbuildings, kennel, shepherds hut...solar panels, play equipment, trampoline, vehicles, storage containers...(iii) The laying of hard surfacing to facilitate the stationing of a mobile home and the development in (i) and (ii) above."*

3.2 The "Reasons for issuing this Notice" set down in section 4 of the Enforcement Notice were stated as being that:- *"It appears to the Council that the above breach of planning control has occurred within the last 10 years...The continued use of land to station a mobile home for residential purposes, along with the associated development, is unacceptable because it fails to meet the criteria set out in Policy DM11 of the Winchester District Local Plan Review...The development is also contrary to Policy MTRA3 and MTRA4 of the LPP1 and the NPPF 2021 in that it has not been demonstrated that there is an essential agricultural need for the proposal...The development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1- Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone...As a result, it is considered that the development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations...The Council do not consider that planning permission should be granted because planning conditions could not overcome these objections to the development."*

3.3 Section 5 of the Notice calls for five steps to be taken to remedy the alleged breach *"(i) Cease the use of the Land for residential purposes; (ii) Remove from the land the mobile home, outbuildings, kennel, shepherds hut, solar panels, play equipment, play equipment, trampoline, vehicles, storage containers and all other paraphernalia brought onto the land to facilitate the residential use; (iii) Dig and permanently remove the hardstanding facilitating the unauthorised development in (i) and (ii) from the land; (iv) Remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (iii); (v) Reseed the land to grass."*

3.4 Section 6 of the Notice gives a period of nine months for compliance with steps (i) to (v).

3.5 Section 7 of the Notice states that it would take effect on 29th November 2022 unless an appeal is lodged beforehand. These Grounds of Appeal are being lodged before 29th November, so the Notice cannot take effect until the appeal is determined.

3.6 Via email at 1458 hours on 7th November 2022, Robert Tutton asked Daniel Lucas of Winchester City Council *"Why does the Notice require the removal of "outbuildings" when planning permission for retention of the eastern stable block was permitted by your Council in January 2020 (19/02474/FUL)?"* Kate Longley replied on his behalf later that day:- *"If you read the notice, you will see that the step requires the removal of outbuildings brought on to the land to facilitate the residential use...It would not include the stables with planning permission but it does for instance include (not limited to) the sheds next to the mobile home which I was advised are used for storage and utilities."*

3.7 Via email at 1344 hours on 14th November 2022, Robert Tutton drew Kate Longley's attention to an error in the 'Reasons' for issuing the Enforcement Notice - the charge was laid

that “*The continued use of land to station a mobile home for residential purposes, along with the associated development, is unacceptable because it fails to meet the criteria set out in Policy DM11 of the Winchester District Local Plan Review*” but Robert Tutton contended that the charge was false because **the Local Plan Review does not contain a Policy DM11**. Later that day Kate Longley wrote “*Thank you for bringing this to the Council’s attention...the notice will not be withdrawn...As you state, there is no DM11 in the Winchester District Local Plan Review...So it is clear the intended policy was DM11 within the Winchester District Plan Part 2 – Development Management and Site Allocations (LPP2)...The correct process, should you disagree with the notice, is to follow the appeal procedure; should the appeal procedure commence, the Council will make the Inspectorate aware of the correct policy reference.*” Not content with Kate Longley’s response, Robert Tutton invited Julie Pinnock (Service Lead, Built Environment) to enquire into the matter. Via email at 1722 hours on 14th November, the ‘Planning Delivery and Implementation Manager’ Lorna Hutchings replied on Julie Pinnock’s behalf:- “*The primary reason for serving is MTRA4 of Local Plan Part One, as the mobile home is a residential change of use contrary to the development strategy for new residential uses...DM11 from the Local Plan Part Two deals with potential justification for mobile homes to be located in the countryside to accommodate agricultural or equestrian workers and so we tested the siting of your clients mobile home in this respect and against this policy...To reiterate, the Council do not consider that any party has been prejudiced by the error in stating DM11 policy as from the Review Local Plan rather than Part 2...I do not believe that there would be a benefit in the withdrawal and re-serving of the notice...Whilst I apologise for this typo, given that the matter has been clarified with sufficient time left to appeal the current notice before it comes into effect, I do not consider our behaviour unreasonable in not withdrawing the notice...The intended policy of DM11 is clear and there are other policy reasons also for the notice, the alleged breach and requirements are clear...Kate has advised of the correct procedure, should you disagree with the notice and such arguments can be made during the appeal procedure...The inspectorate has the power to correct an error in the notice, should they feel it necessary.*”

4.0 THE APPEAL on GROUND A.

4.1 Section 38 of the Planning and Compensation Act 2004 requires an application or appeal to be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise – an element of flexibility is provided which enables decisions to be made which may disagree with the development plan. The development plan for Winchester district presently comprises saved policies of the **Winchester District Local Plan Review** (2006) (the ‘Local Plan Review’), the **Winchester District Local Plan Part 1 Joint Core Strategy** (2013) (‘the Core Strategy’) and the **Winchester District Local Plan Part 2: Development Management and Site Allocations (2017)** (the ‘Local Plan Part 2’).

4.2 Proposals Map 32 of the **Winchester District Local Plan Review (Appendix 3)** shows the location and extent of the East Hampshire Area of Outstanding Natural Beauty - its southwest boundary lies to the northeast, beyond Swanmore. Inset Map 26 shows Clewers Hill and Lower Chase Road as the boundaries of the H3 Policy area ‘Waltham Chase’. The light-green wash shows the ‘Four Acre Stables’ site within ‘Countryside’ the subject of Policies CE1-CE28, with no special designations.

4.3 The ‘Reasons’ set down in section 4 of the Enforcement Notice asserted that “*The continued use of land to station a mobile home for residential purposes, along with the associated development is unacceptable because it fails to meet the criteria set out in Policy DM11 of the Winchester District Local Plan Review*” but the Local Plan Review does not actually contain a Policy DM11.

4.4 Policies Map 19 of ‘**Winchester District Local Plan Part 2: Development Management and Site Allocations**’ (**Appendix 5**) essentially reiterated the land-use allocations of Local Plan Review Proposals Map 32 (see para.4.2 above) ie land to the north, south and east of Waltham Chase is shown to be the subject of Core Strategy Policy CP18 re ‘Local Gaps’ (in this case the

gap between Bishops Waltham, Swanmore, Waltham Chase, Shedfield and Shirrell Heath) but that designation finishes at the junction of Clewers Hill with the lane that leads northwest to Four Acre Stables and the other equestrian developments and gives way to MTRA4. No issue is taken with the City Council's assertion that 'Four Acre Stables' lies outside the defined settlement boundary of Waltham Chase (as shown on Map 19 of the Local Plan Part 2) and consequently falls within "The Countryside" - defined as land outside the built-up areas of Winchester, Whiteley and Waterlooville and the settlements covered by Core Strategy Policies MTRA2 and 3. With reference to "Other Settlements in the Market Towns and Rural Area", paragraph 6.30 of the **Winchester District Local Plan Part 1: Joint Core Strategy** ('the Core Strategy') (**Appendix 4**) records Winchester City Council's position that "*Very small communities which are no more than a collection of houses or isolated dwellings...are considered to be within the wider countryside...Development will be limited to that which has an essential need to be located in the countryside...This **may include** development which is necessary for agricultural, horticultural or forestry purposes and certain types of open recreational uses which require a countryside location.*" Policy MTRA4 consequently states that "*In the countryside...the Local Planning Authority will, only permit the following types of development...development which has an operational need for a countryside location, **such as** for agriculture, horticulture or forestry*"(emphasis has been added). Issue is taken, however, with its contention that permission should be withheld for certain developments on the site. Use of the phrases '*may include*' and '*such as*' clearly imply that agriculture, horticulture and forestry are merely *examples* of developments which have an operational need for a countryside location and that developments of other descriptions can be accepted. Horse riding is a recreational use which requires a countryside location. 'Teddy' is ridden on this site by Shaun Manning's two granddaughters 4-5 times a week (see para.1.2 above), so equestrian use has an operational need for this countryside location. Stabling and containers for bedding and feed are required to keep 'Teddy' on the site and residential occupation of Shaun Manning's home is needed for Teddy's welfare. Stables, containers and a dwellinghouse comprise developments which have an operational need to remain on this site and, as their retention would not cause harm to the character or landscape of the "developed countryside" at this west end of the lane, permission for their retention should be granted in accordance with Core Strategy Policy MTRA4.

4.5 The Enforcement Notice did not actually lay a charge that the retention of Shaun Manning's home would constitute a breach of Winchester Local Plan Part 2 Policy DM11 re 'Housing for Essential Rural Workers' but the Officers contended on 14th November 2022 that their oversight should not prevent such a charge being laid; Shaun Manning has been prejudiced by their approach. Paragraph 6.3.32 states that "*Uses other than those of agriculture or forestry will not normally justify on-site accommodation as they will not normally have an essential need to locate on-site...Operators of other enterprises in rural locations, such as equestrian businesses, should have regards to the adequacy of accommodation when setting up or developing the business.*" It is submitted that *abnormal* circumstances have prevailed at Four Acre Stables since at least November 2015, when Marissa Hunter bought the site and a mobile home was already standing there. There is an essential need for Shaun Manning to live on the 'Four Acre Stables' site for 'Teddy's' welfare and the design of his dwellinghouse reflects local distinctiveness and the character of its surroundings.

4.6 Policies CP15 and CP16 of the Core Strategy relate to 'Green Infrastructure' and 'Biodiversity' respectively. Shaun Manning completed the "*European sites checklist*" (**Appendix 6**) on 11th November 2022 and paid the requisite contribution of £390 to Winchester City Council on 21st November 2022.

4.7 Paragraph 55 of the **National Planning Policy Framework** states that '*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances*' and sets four down *examples* of such circumstances – rural worker, heritage asset, redundant building, exceptional quality. Paragraph 55 does not pretend to constitute an exhaustive list of the special circumstances that may come to be recognised as justification for a new dwelling outside built-up areas, indeed, it would be impossible for the NPPF or any local planning policy document to anticipate every conceivable circumstance that may arise during its

relevant period. It is submitted that Four Acre Stables is such an exceptional circumstance and the absence of an explicit reference to such development is no reason for removal of Shaun Manning's home from this site as it comprises an integral part of the group of equestrian developments that characterise the west end of the lane and it is not isolated,.

4.8 Four Acre Stables does not form part of the East Hampshire Area of Outstanding Natural Beauty or the Bishops Waltham/Swanmore/Shedfield Strategic Gap but it does lie beyond the settlement boundary of Waltham Chase within a locality that is characterised by equestrian buildings and their attendant homes. Shaun Manning has an operational need for his home to remain in this 'developed countryside' location - it is his home/work establishment within a group of such enterprises and his constant presence is required for Teddy's welfare. Contrary to the actual and implicit charges laid down in the Enforcement Notice, it is submitted that the requirements of Core Strategy Policy MTRA4, Policy DM11 of Local Plan Part 2 and paragraph 55 of the NPPF are satisfied, so this appeal should be allowed on Ground A.

5.0 THE APPEAL on GROUND D

5.1 Three years ago, Marissa Hunter declared that a mobile home already stood on the Four Acre Stables site when she bought it in November 2015 but, to her knowledge, it had not been used for residential occupation. As it was dilapidated, she brought a second mobile home onto the site later that month, commenced its residential occupation as her new home; she removed its A-frame and wheels three days later. She has declared that (save for an outside portaloos) the mobile home was fully equipped with all the services and facilities of modern living - fitted kitchen, bathroom, bedroom, living room (with log-burner) and a generator for the shower. Shaun Manning confirmed that he and his wife Deborah Manning bought Four Acre Stables from Marissa Hunter in May 2017 and he installed a septic tank in the grounds the following month; he declared that the mobile home has stood on the site (without wheels or an A-frame) and it has been continuously used as a residential dwellinghouse since May 2017. Shaun Manning has assured that his home is chained to concrete blocks. In view of Winchester City Council's reliance on the principle established by the 'Swanley' case in 2017 – *"It is sufficient that the unit can be picked up intact (including the floor and roof) and put on a lorry by crane or hoist"* (see para. 2.3 above). Shaun Manning invited Stuart Banks of "A R Banks, Safe Effective Solutions" to assess the practicality of lifting his home onto a waiting vehicle. Mr Banks visited Four Acre Stables on 18th November 2022 and recorded his findings by letter three days later (**Appendix 8**) – *"As mentioned while on the site visit, there's no available room to position on the access road to your property...(and)...Rig Up a mobile crane or lorry loader as you'll need approximately 7.2m to allow for a piece of equipment large enough to lift and load your mobile home from its current position onto a waiting vehicle...The current access road measures at 3.1m and access into the property is also not permissible, due to the very tight swing in."* With his letter, Stuart Banks helpfully provided an extract from the technical literature relating to the AC100-4/AC100-4L All-Terrain Crane that would be needed to lift the dwellinghouse onto a waiting vehicle. It is evident from the Officers Report (Appendix 2) that their findings were based on a false premise - a belief that Shaun Manning's dwellinghouse could be bodily removed from the site by crane. As the subject dwellinghouse has stood on the land for over four years, could not be removed from the site in one piece and has been in continuous residential use for that period, it is lawful.

5.2 The Supplemental Information Questionnaire completed by Marissa Jayne Hunter prior to her sale of Four Acre Stables to Shaun Manning (**Appendix 7**) recorded (in its 'Meters/Switches' section) that *"Electricity supplied by solar panels...(were)...brand new Oct 2016...all batteries & info in first shed"*. It is evident that the solar panels were installed on the land in October 2016 and were in place more than four years before the Enforcement Notice was issued.

5.3 It is submitted that, at the time the Enforcement Notice was issued, it was too late to take enforcement action against these matters and this appeal should succeed on Ground D.

6.0 THE APPEAL on GROUND F

6.1 Four Acre Stables lies beside a private lane some 450 metres to the west of the public highway that is Clewers Hill and it forms an integral part of the 'developed countryside' area that is characterised by stables, equestrian uses, agricultural buildings and their attendant dwellings in a variety of formats and plot sizes. None of the matters specified in the Enforcement Notice cause harm to the character or landscape of the developed countryside that characterises the western end of this private lane. As the steps required by the notice exceed what is necessary to remedy any injury to amenity which may be caused by the alleged breaches, this appeal should succeed on Ground F.

7.0 THE APPEAL on GROUND G

7.1 Shaun Manning explained (see para 1.4 above) that Four Acre Stables was all he could afford in 2017 - a mortgage to buy a house was not within his financial grasp. Since its purchase, Four Acre Stables has become a home for Teddy and afforded the opportunity for frequent and regular equestrian use of the land by Shaun Manning's granddaughters. The site has also become a home/work operational centre for All Star Waste and an overnight holding station for waste-laden vehicles. Replacement of the facilities that are now enjoyed are rare within settlements and even rarer in the countryside. Should the appeals fail on Grounds A and D, Teddy would have to be sold or relocated; the site would need to be marketed and sold and an alternative found. Selling the land without residential accommodation (with a confirmed Enforcement Notice against it) would present its own difficulties and, at his time of life (he is 60 years old), it is unlikely that Shaun Manning would succeed in securing a new mortgage. Winchester City Council has provided no explanation for its requirement to comply with the Enforcement Notice within nine months; two years would be more reasonable. This appeal should succeed on Ground G.

8.0 CONCLUSION and SUBMISSION

8.1 Four Acre Stables is situated beside a narrow private lane some 450 metres to the west of the public highway that is Clewers Hill and forms part of an area of 'developed countryside' that is characterised by stables, equestrian uses, agricultural buildings and their attendant dwellings in a variety of formats. While the appeal site lies outside the settlement boundary of Waltham Chase, this sector of the 'rural area' has no special designations.

8.2 The Winchester District Local Plan Review has no Policy DM11 and Officers of the City Council have admitted their oversight. Equestrian use is an appropriate use for land outside the settlement area and Shaun Manning needs to live on the holding in the welfare interest of his charge, called 'Teddy'. Core Strategy Policy MTRA4 provides for "*open recreational uses which require a countryside location*" and equestrian use of this site accords with that provision.

8.3 In accordance with Policies CP15 and CP16 of the Winchester Core Strategy, Shaun Manning has completed the "*European sites checklist*" and paid the requisite contribution of £390.

8.4 Paragraph 55 of National Planning Policy Framework commends local planning authorities to avoid new isolated homes in the countryside unless there are special circumstances. The dwellinghouse at Four Acre Stables is not new (a home has stood on this site since 1992), is not isolated (it stands within a group of similar establishments about and beyond the bend in the lane) and Teddy's welfare is a special circumstance.

8.5 Shaun Manning has asserted that his dwellinghouse largely stands on shingle that was already laid when he bought the site - "*There is no and never has been additional hardstanding laid for the purpose of the static home...We utilised the existing hardstanding, the only further*

materials in the ground is concrete blocks which chains are attached to, which then attached to the caravan." The dwellinghouse has been fixed to the ground since 2017 (ie more than four years) and cannot be craned out, so it is a lawful building.

8.6 A modest outbuilding at the southeast corner of the dwellinghouse contains a freezer, washing machine and tumble-dryer to serve the day-to-day needs of the residents.

8.7 Shaun Manning recalls that the dog kennel was erected in May 2017, when he moved onto the site. As it was erected more than four years ago, it is lawful.

8.8 The shepherd's hut was brought to the site in the Spring of 2022 is moved about the site on wheels and used as a mobile play-house by Shaun Manning's five grand-children when they visit. Its stationing on the land does not constitute a material change of use of the planning unit.

8.9 The Supplemental Information Questionnaire completed by Marissa Hunter (Appendix 7) confirmed that the modest array of solar panels was installed in October 2016. As it was erected more than four years ago, it is lawful

8.10 The play equipment and trampoline have been removed from the land.

8.11 A Luton van and a transit truck are necessarily used by Shaun Manning for his work with Allstar Waste; parking them on the site overnight does not constitute a material change of use of the planning unit

8.12 One container came to the site in the Spring of 2018, the other in the Winter of 2022. They are used for storage. Their presence on the land does not constitute a material change of use of the planning unit.

8.14 For these reasons, the Secretary of State for Levelling Up, Housing and Communities is respectfully requested to allow this appeal on Grounds A, D, F and G.

APPENDICES

1. Photographs
2. Officers Report re application 21/01896/LDC, 15th February 2022.
3. Winchester District Local Plan Review 2006 (extract).
4. Winchester District Local Plan Part 1 Joint Core Strategy 2013 (extract).
5. Winchester District Local Plan Part 2: Development Management and Site Allocations (extract).
6. European sites checklist, Solent Recreation Mitigation Payment receipt and Nutrient Assessment and Budget
7. Supplemental Information Questionnaire completed by Marissa Jayne Hunter.
8. Stuart Banks' letter and attachment, 21st November 2022.