



## **STATEMENT OF CASE**

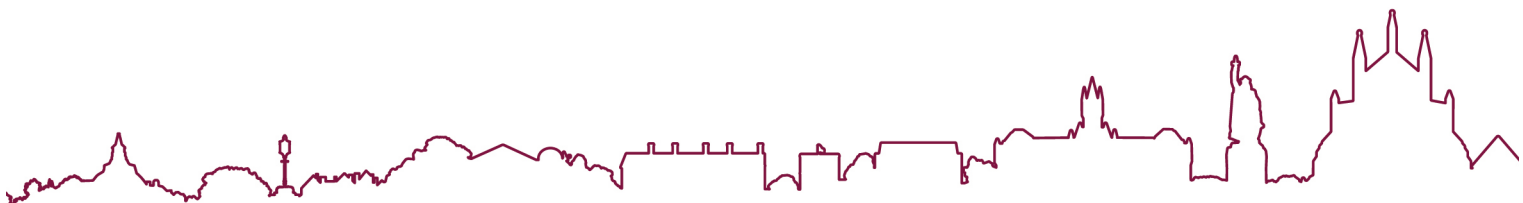
**SITE:** Land at Four Acres Stables, Clewers Hill, Waltham Chase,  
Southampton, Hampshire, SO32 2LN

**APPEALS BY:** Mr S Manning

## **AGAINST ENFORCEMENT NOTICE**

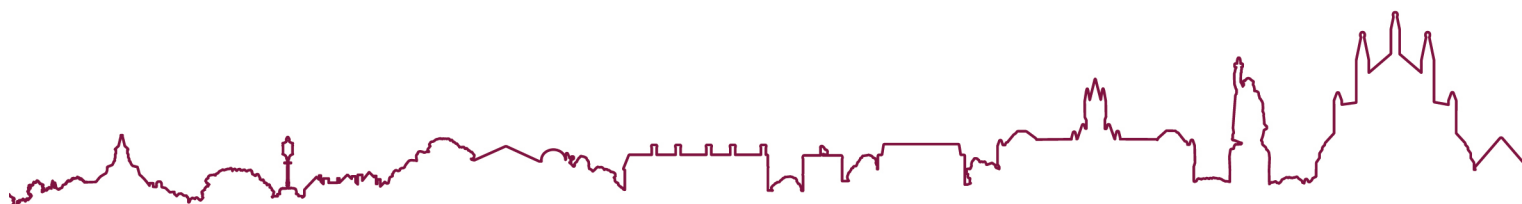
**DATE:** 24<sup>th</sup> January 2023

**APPEAL REF:** APP/L1765/C/22/3311957



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## 1. INTRODUCTION

This statement of case relates to the appeal of an enforcement notice served in relation to Material change of use of land from an equestrian use of the land to residential purposes through the stationing of a mobile home and the erection on the land of outbuildings, kennels, shepherds hut, solar panels, play equipment, trampoline, vehicles and storage containers; and (the laying of hardstanding to facilitate the stationing of a mobile home

## 2. HISTORY

A chronology is set out within the attached memo as appendix 1, stating the enforcement investigation and planning history.

With reference to 3.7 of the appellant's statement of case, we acknowledge that DM11 is in Local Plan 2, The substantive policy is MTRA4 in relation to the residential use of the site. DM11 is cited to consider an analysis of any need for this mobile home of which no need has been demonstrated which could satisfy this policy as set in appendix 1. This was explained at the earliest stage to the appellant and a reasonable reader would understand that application of this policy in the context of the development plan and the notice and the memo and our prior communication with them.

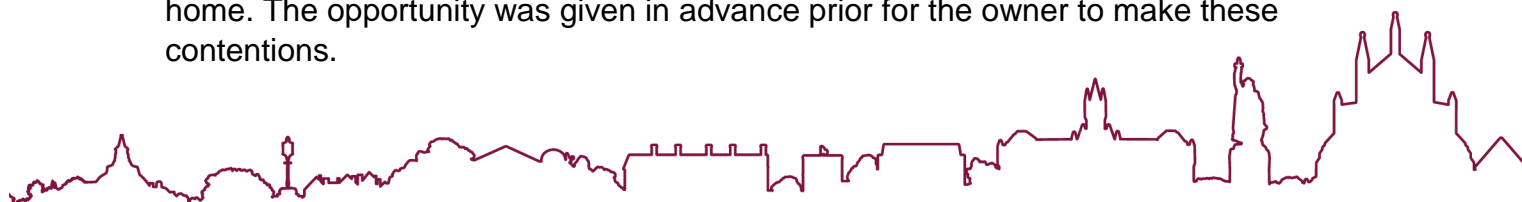
**3. RESPONSE TO GROUND (a)** - That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

Please see attached Memo as appendix A

In addition in reference to Ground A appeal statement at 4.5, it is contended that the mobile home is needed for Shaun Manning to live on four acres stables for Teddy's welfare.

The Council do not consider that this need alone is of a scale that would warrant approving a mobile home in accordance with policy DM11 and DM12. Notwithstanding this the need has not been evidenced. Nothing has been submitted to assess alternative accommodation it does not appear that the appellants have evidenced that there is no suitable existing accommodation in the area.

No statements, accounts or information has been provided to show that there is business or a growing business that would financially justify the siting of a mobile home. The opportunity was given in advance prior for the owner to make these contentions.



The Solent water environment is internationally important for its wildlife and is protected under the Water Environment Regulations and the Conservation of Habitats and Species Regulations as well as national protection for many parts of the coastline and their sea. Natural England's advice has outlined serious concerns about high levels of nitrogen and phosphorous input in this water environment with evidence that these nutrients are causing eutrophication (a process which causes excessive growth of green algae) which is having a detrimental impact upon protected habitats and bird species. See [WCC Position Statement - FINAL - Feb 2020 \(3\).pdf \(itss.local\)](#) and above linked website which will explain how this development impacts. See Natural England's A summary Guide of the impacts and issues. Nutrient Neutrality - a summary guide.pdf (itss.local) [Nutrient Neutrality - a summary guide.pdf \(itss.local\)](#)

Enforcement Action will therefore ensure in respect of Nitrate impact and mitigation that the development accords with the Conservation of Habitats and Species Regulations 2017, and Policy CP11, CP16 and CP21 of the Winchester District Local Plan Part 1

It is also confirmed that the Solent Water Bird Aware issues is now resolved as a Solent Recreation Mitigation Strategy payment of £390 was paid on 21st November by the appellants.

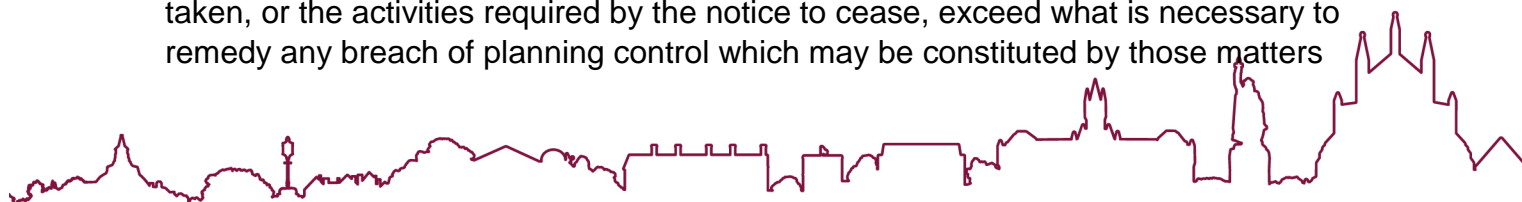
**4. RESPONSE TO GROUND (d)** - That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.

The Appellant at point 5.1 in his Grounds of Appeal states that the mobile home could not be practically removed from the site in view of the mobile home being difficult to remove directly onto a waiting vehicle due to the limited access and turning circle at the site. In order to assist this argument they have submitted a report stating that it would be difficult to remove from the site as a result of lack of clearance and access within the site and the constraints of the site.

It is however apparent that the wheels could be reconnected in order to allow the removal from the site and this has not been addressed in the appellant's statement. It may also be possible to use other pieces of adjoining land in order to help facilitate the removal from the site for example removing landscaping to facilitate the removal from the site.

It may also be possible to use adjoining land in order facilitate cranes to remove the mobile home from the land.

**5. RESPONSE TO GROUND (f)** - That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters



or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

The appellant states that due to the location of the site being 450 metres to the west of the public highway that an impact to the character of the area does not exist.

However the view of Winchester City Council, the relationship with the public highway does not distract from the harm as outlined in policy MTRA4 as Winchester City Council take the view that should the development remain that is for a residential use, the identified harm is such that it undermines the development plan strategy as an unjustified residential use outside the main settlement. The attached notice outlines policies that the quashing of the Enforcement notice would not overcome.

On page 12 of attached memo, impact on character is an analysis on the impact of the character of the area and the relevant policies. The urbanising of the rural area with an unlawful residential use which has no justification and is contrary to the MTRA4 Development Plan strategy for new housing will have an intrinsic harm to the countryside. It however is then finally concluded that there is no demonstrable harm in terms of visual intrusion in respect of the development policies DM15, DM16 and DM17 and DM23. Section 4 of the Enforcement Notice summarises the Planning arguments.

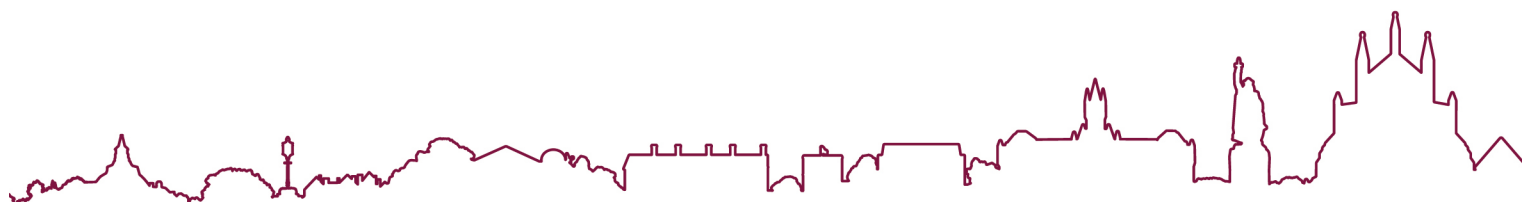
**6. RESPONSE TO GROUND (g)** - That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

The appellant states that the use occurred as a result of economic circumstance and the inability to buy a house being outside his economic means. The statement then references the fact that it would be difficult to replace the accommodation that they have at Four Acres Stables and that the site would need to be sold.

Winchester City Council took the view that 9 months is a reasonable timeframe in relation to the works required to comply with the Enforcement Notice as a result of the structures on site alongside the cessation of the residential use and the resulting homelessness that will be created.

It should be noted that residential law requires a landlord to give a tenant at least 2 months' written notice of their intention to repossess the property. The 9 month timeframe given by Winchester City Council is therefore generous in order to allow the owner to resolve these matters alongside the physical removal at the site. It should also be noted that the tenants were referred to the housing team at Winchester City Council for re-housing advice.

## 7. CONCLUSION



10.1 For the reasons given above and in the attached appendices, the Inspector is respectfully requested to dismiss this appeal and uphold the enforcement notice in its entirety.

## 8. APPENDICES

- 1) Memo
- 2) Enforcement Notice

