

MEMO

FROM: Kate Longley

OUR REF: 19/00281/COU

TO: Service lead legal

DATE: 30th August 2022

Type of notice to serve: Enforcement notice

Land registry title number(s): HP437313

Statutory power: The Town and Country Planning Act 1990 (as amended)

Location/address of land to which the notice will relate:

Four Acre Stables, Clewers Hill, Waltham Chase, Southampton, Hampshire, SO32 2LN

Notice to be served on:

Deborah Lee Manning of 10 Merton Crescent, Fareham PO16 9NL (land registry)

Shaun Nicholas Manning of 10 Merton Crescent, Fareham PO16 9NL (land registry)

Deborah Lee Manning Four Acre Stables, Clewers Hill, Waltham Chase, Southampton, Hampshire, SO32 2LN

Shaun Nicholas Manning Four Acre Stables, Clewers Hill, Waltham Chase, Southampton, Hampshire, SO32 2LN

The Owner, Four Acre Stables, Clewers Hill, Waltham Chase, Southampton, Hampshire, SO32 2LN (To cover any unknown occupiers given the nature of the site).

The Occupier, Four Acre Stables, Clewers Hill, Waltham Chase, Southampton, Hampshire, SO32 2LN (To cover any unknown owners given the nature of the site).

Please find attached a draft Enforcement Notice in respect of the above breach of planning control.

Would you please arrange to serve the notice as set out in the draft or in terms you consider appropriate ASAP.

Introduction

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 caravan in the approximate position marked "X" on the plan;
- (ii) The erection on the land of outbuildings, kennel, shepherds hut, play equipment, solar panels and fencing in connection with the residential use.
- (iii) The laying of hardsurfacing to facilitate the stationing of a mobile home and the development in (i) and (ii) above.

The owner has been given opportunities to resolve the breach and has also been afforded time to submit an LDC with their perspective that the mobile home is now a 'building' this has now been refused twice and no further action or indication that the breach will be resolved has been provided by the owner.

The owners has consistently advised there is no business use on the land, no evidence of a business use at this stage.

The site and surrounding area

The site consists of an area of land within a countryside location which has been separated into paddocks predominantly used for the grazing of horses. The site was previously used for this purpose. The site is accessed by a long gravel track off Clewers hill, leading from the edge of Waltham Chase into the open countryside. The track also serves a number of other equestrian related sites.

The site has previously been investigated for residential occupation, the previous owner completed a PCN to confirm this was not the case. The present owner has been advised of the planning issues and afforded opportunity to resolve these which as of the date of writing this report remains in situ.

Relevant planning/enforcement history:

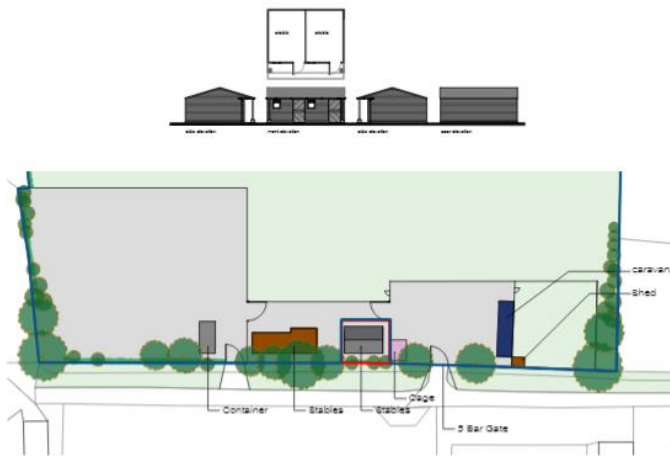
15/00353/CARAVN - Alleged additional mobile home on the land without consent. *Closed.*

16/00295/CARAVN - 2 part wooden clad mobile home has been placed along the track leading to borderhill stables. *Closed.*

18/00050/COU - Alleged hardstanding, possible residential use and solar panels without pp. *Closed.*

19/00281/COU - Alleged mobile home used as permanent residential use. Also, running business from the site. ***Current file.***

19/02474/FUL – Retention of eastern stable block. *Approved. 03.01.2020*



19/02581/LDC - Existing use of former mobile home as a dwellinghouse. *Refused.*

21/91896/LDC - Existing use of former mobile home as a dwellinghouse. *Refused.*

No other relevant history.

The relevant evidence/issues:

24th November 2015 – 15/00353/CARAVN. Site visit conducted, no-one on site at the time. 2 static mobile homes on site and a portoloo. Spoke to owner of adjacent site who advised that they believed that they had bought a new mobile to replace the old one and that no-one was living on site.

1st December 2015 – The Council received a complaint that a mobile home had been brought on to the land to replace an existing mobile home and was being resided in.

7th December 2015 – Letter to owner advising of visit and the mobile homes observed and requesting contact within 7 days.

8th December 2015 - Call received from the owner to advise that no-one has been living on the site at all. They bought the land on the 5th Nov and use the mobile home as a rest room. The old mobile is rotten and leaking so they have brought on a newer one as a replacement. They will be removing the old one as soon as they can.

11th July 2016 – Further visit to the site, both mobile homes remain on site, the one nearest the entrance has a chimney flue. Could see at least 3 dogs in this mobile and a cat wandering between the two. Door open on mobile furthest away. Gates locked, card left.

20th July 2016 - Phone call received from owner advised that they will be removing the old mobile home as soon as possible; it is currently being used by several stray cats that she inherited when she bought the site. The new mobile home is used as a restroom and on one occasion was used for overnight accommodation when her mare came into

foal and had issues. She lives in a property in Whiteley and has no intention of living on site.

8th September 2016 - Planning Contravention Notice served, due to be returned by 3rd October.

22nd September 2016 – Completed PCN by Marissa Hunter. Advised the 1st caravan had been on the land for 9+ years, 2nd caravan advised to arrive November 2015. Advised that the mobile homes are not being used for residential purposes. Older mobile home stated to be used for stray cats and the second caravan used for when the owner was tending to her horses. At the time the mobile home was stated to not be connected to any services. Confirmation that no other buildings/structures on the land used residentially so no residential use on the land. Confirmation no intention to occupy residentially.

18th July 2017 – Letter to owner advising that confirmation required – evidence of 9+ years and planning application for second mobile home.

8th August 2017 – New complaint received relating to mobile home and residential occupation.

22nd November 2017 - 15/00353/CARAVN file closed due to PCN response and advice that no residential occupation on land – no breach.

13th February 2018 – The Council received a new complaint relating to hardsurfacing residential use and solar panels. File opened 18/00050/COU.

15th February 2018 – Site visit undertaken, site advised to appear unoccupied dog heard barking from within site.

16th February 2018 – Information received advising lorry of household waste and a digger on site. Mound of hard core on site. Three vans and workers on land.

20th February 2018 - Site visit two white transit vans. Both contained only tools. Scrap on site - window frames and glass, scrap metal, a fire site and broken sanitary ware. An area has been enclosed on the grass with wooden sleepers and was in the process of being filled with aggregate. Beneath the aggregate there was rubble. Advised nothing observed appeared to have planning permission and that the owner would be contacted.

26th February 2018 - Telephone call from owner (current owner in relation to this file). Claimed to have receipts for waste and denies bringing waste onto the site, claiming that what was observed what had been left on the site by previous occupant.

13th March 2018 - Site visit to Four Acres spoke to Mr Shaun Manning. The site was much tidier than on previous visits. Mr Manning showed receipts for waste disposal with company known as L and S.

21st May 2018 - Site visit. Owner spoken to. It was quite tidy compared to previous visits.

5th July 2019 – File18/00050/COU closed.

10th September 2019 – The Council received a complaint relating to an unauthorised mobile home on the land being used for residential use and also potential business use occurring on the land. File 19/00281/COU opened.

16th September 2019 – Letter to owner regarding a site visit and requesting contact.

23rd September 2019 – SV undertaken.

24th September 2019 – Email from agent advising that following the site visit it would seem the main issue is whether the mobile home is 'mobile' and if it is not if it has been on the land used as a dwellinghouse in excess of 4 years.

24th September 2019 – Email from Council to agent advising will await information RE potential lawfulness and also advising a planning permission is required for the stables.

21st October 2019 – Email from Council to agent chasing planning submissions.

30th October 2019 – Agent confirmed preparation is progressing on applications.

6th November 2019 – Agent confirms an application for the stable was submitted and that evidence was continuing to be gathered for the LDC for the mobile home.

8th November 2019 - Application submitted ref:19/02474/FUL for Retention of eastern stable block.

22nd November 2019 – Lawful development application 19/02581/LDC submitted for Existing use of former mobile home as a dwellinghouse.

22nd November 2019 – EN response to consultation on and LDC application;

Comments on LDC app

Please note that the plans to the stat decs are illegible. This relates to a static caravan that has been adapted as per the stat decs. However, the evidence is lacking. They have not demonstrated that it cannot be moved off the site in one piece. We have no evidence on file as to the internal layout and I would suggest a visit with the enforcement officer dealing with the matter (ref 19/00281/COU). It appears to be fitted with a wood burner and this may have rendered it structurally incapable of being moved. The pads would not have prevented the caravan's removal.

There is a completed PCN on the idox file for enf case ref 15/00353/CARAVN. Photographs taken 24.11.15 and 11.7.16 show no change to the mobile home and it is in a different location to the photos taken on 24.11.17 for enf case 16/00295/CARAVN. The chassis appears to be in situ. The flue for the woodburner is in place by 11.7.16 as it can be seen in the photo for the 2015 case. The caravan subject to the LDC application is in the same location as that on 24.11.17. Given the caravan has moved to its final location with the flue in place it is unlikely that the woodburner renders the caravan immobile.

I would recommend the application is refused on the basis that there is a lack evidence to demonstrate that the caravan is no longer mobile and is a dwelling.

28th November 2019 – Site visit undertaken.

3rd December 2019 – Complaint received regarding use of the land. Advising many changes have been made to the land including a new driveway, moving the mobile home creating hard surfacing for a business. A household business ALL STAR CLWEARNCE. Advising that the land is being inhabited and running business. Advises the land has been residentially occupied since 2015.

3rd December 2019 – Email advising that the land was advertised for sale on facebook February 2017 purchased by current owner who dismantled the existing caravan and placed a new caravan on the land around April/May 2017.

3rd January 2020 – Application 19/02474/FUL application approved for stables.

20th January 2020 - LDC application 19/02581/LDC refused.

7th February 2020 – SV notes – LDC refused. Visited the site with revenues inspector on 7.2.20 - the owner confirmed that they run two LGVs vehicles used for waste recycling. The vehicles are kept on site at night but the waste is not collected from the site or sorted on the site. Not the registered address for the business.

Also noted a container (not seen inside but told was used for equestrian storage). Building materials (for son's extension), JCB (due to be removed as sold), pallets, pipes and other non related items being stored. Ice cream van (declared SORN). Told them to remove and will visit again in 6 weeks.

The stables are empty - no horses on site at the moment

6th March 2020 – Site visit conducted the site was being cleared up. They intend to appeal the LDC decision re the caravan. Will need to revisit to check.

3rd July 2020 - Follow up site visit to check on the clearance of items. Site a lot tidier than then last visit. Keep monitoring. Still intended to appeal re LDC for caravan - planning agent not been accessible.

14th June 2021 – Email to agent requesting confirmation that they are still the agent for the site.

14th June 2021 – Site review note: LDC 19/02581/LDC states that:

13th July 2021 – LDC application 21/01896/LDC for existing use of former mobile home as a dwellinghouse submitted.

22nd July 2021 – Email to agent to request a site visit.

29th July 2021 – Email from agent to arrange date.

4th August 2021 – SV conducted notes;

Site visit as part of LDC application on behalf of Legal officer dealing with it.

Mobile home measures:

Depth: 3.07m

Length: 10.05m

Outside height from ground to pitch: 2.5m

Skirt height: 35cm

Internal height: 1.96m

Email to agent confirming officer opinion is that the caravan is not a building.

8th November 2021 – New complaint received relating to rubbish being taken to site and burned.

17th February 2022 – LDC 21/01896/LDC decision refused. Reason: The Council disagrees with the following; 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. Therefore the Council does not consider the development immune.

17th February 2022 – Legal confirmed date they believe the development would be lawful is 30th May 2027.

29th March 2022 – Email to agent RE visit to gather information for notice pending refused LDC.

16th May 2022 - Email sent to agent/owner advising need a date to visit or will invoke right of entry.

16th May 2022 - Phone call with comp - appears a large scale waste operation is also being run from the land. Burning, screening etc. Advised 12 lorries have gone in most days for the past few weeks.

27th May 2022 - SV conducted met with owner and Bob Tutton (agent). When I arrived the owner was present but not the agent I asked the owner if he wanted me to wait in the car but he said no. He advised me the mobile home has permission to be on the land but not to be lived in. I stated I had not seen this and tried to locate such a permission on my laptop but signal was sporadic. When the agent arrived I advised the purpose of my visit was to gather information for a notice to be issued. I asked him about the permission for a mobile home but he said nothing and later advised as I was there on threat of enforcement he would not be forthcoming or help me in anyway. On the land when entering to the left there is a crate housing dogs - chicken wire structure. Then a stable which is currently being used as a tack and stable although no horses present. This sits on a concrete slab and adjacent to this is a menage. On the slab there is also a garden seating set (table and chairs). Walking behind this you can access what is another stable, it is currently being used as a wood store and storage. I observed a dirt bike, tractor, cut wood, wood cutting equipment. The owner advised this is to be taken down once he has planning permission for replacement stables. Next to this there were two containers, the owner advised that they were used to store excess furniture from their old property.

To the right of the entrance is the mobile home. The LDC application recently submitted alleges this is a 'building'. Checked connection to ground and it appears that tripod screws connect to wooden beams but it still does not appear to have any significant physical attachment. Around this is a metal skirt. In my opinion it still falls within a caravan not a building. Behind this there is a garden area, with children's toys (confirmed they do not live on site and belong to his grandchildren who visit). A shed which is used

for utilities. In the fields adjacent there is a shepherds hut, appears vacant and to be internally empty/being restored. This sits on a shingle hardsurface with wooden edging which was put on the land to facilitate this hut. Also present - solar panels and a vegetable patch. The owner advised it is just him and his wife who live on the land. Agent asked if I will be issuing a PCN advised unlikely as the information is fairly transparent. I advised I would write to them after checking for this mobile home permission and let them know what needs to be done but if they do not remedy the breaches a notice will be issued.

11th July 2022 – Options email sent to owner and agent requiring response within 7 days.

As of the date of writing this report all breaches remain and neither the owner nor agent have responded to the last options email.

Have the works to the mobile home made it a building?

It was observed that a wooden step has been erected adjacent to the mobile home to facilitate entry. It is not physically attached to the ground or to the mobile home. Removal of the steps would be a simple straight forward process comparable to disconnection from services that could be carried out quickly whilst leaving the remaining structure intact.

The mobile home remains on unit, with no physical attachment to the ground it is still capable of being moved in one piece. It is a standard sized mobile home not of considerable size. The mobile home on the land is considered to still be a mobile home that for planning purposes falls within the definition of a caravan as set out in the Caravan Sites Act 1968. The dimensions of the caravan is within the limits for a caravan as set out in the Caravan Sites Act 1968.

To summarise the mobile home is still moveable and able to meet the definition of a caravan. Given this the Council consider the mobile home as a matter of fact and degree remains a caravan/mobile home and not a building.

The mobile home, including the steps are considered to facilitate the unauthorised use and as such will be included within the steps of the notice.

Consultations:

None

Planning policy:

Statutory background:

The Town and Country Planning Act 1990 (as amended)
The Town and Country Planning (General Permitted Development) Order 2015 (as amended)
Human Rights Act 1998
Equalities Act 2010

National policy/guidance:

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on July 2021 and sets out the Government's planning policies for England and how these are expected to be applied. A number of sections are of relevance to this case, including:

- Chapter 4 – Decision making
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

Local policy/guidance:

Winchester District Local Plan Review Saved Policies

DP3, DM11, DM15, DM17, DM23

Winchester District Local Plan Part 1: Joint Core Strategy

MTRA4, CP15, CP16, CP20

Supplementary Planning Guidance:

Bishops Waltham VDS 2016

National Planning Policy Guidance/Statements:

NPPF 2021

Planning considerations:

The relevant material considerations are:

- The principle of the development
- The impact on the character of the area

Principle of development

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Paragraph 80 of the NPPF states that:

'Local authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: The essential need for a rural worker to live permanently at or near to their place of work in the countryside...'

This is reflected in Policy MTRA 4 of the Winchester District Local Plan Part 1 which states that development in the countryside is only acceptable in certain circumstances such as for agriculture, horticulture or forestry. A residential use in this location is therefore contrary to this policy as part of the strategic overarching Development Plan Strategy for new housing in Winchester District. There are no overriding material considerations or other justification or policies of the Part 2 Local Plan that would allow it by outweighing MTRA4 and the Development Plan.

Policy DM12 of the Local Plan Part Two notes that the development of residential accommodation in connection with equestrian development will be considered in

accordance with Policy DM11. Policy DM11 of the Winchester District Local Part 2 allows for residential accommodation that is essentially needed to support an agricultural business use and therefore, an equestrian business use under DM12, in the countryside. This is a criteria based assessment of applications in respect of temporary residential accommodation. This essentially sets out two tests; *functional test* which seeks to establish that the labour requirements of the holding justify the works and that a continual presence on the holding is essential to the efficient working and development of the enterprise and a *financial test* which requires clear evidence of a firm intention and ability to develop the enterprise based on a sound financial projection.

Functional test

The preliminary question noted in the policy is 'whether there is a firm intention to develop the enterprise'. Given that the current occupier does not work in agriculture or an equestrian business and does not appear to be operating the land in any agricultural manner let alone a business for agriculture or equestrian there appears to be no intention to develop a relevant enterprise. Notwithstanding this, there is also clearly no agricultural or equestrian business activity that would justify the requirement for someone to live on site. This test fails, there is no 'agricultural or equestrian' activity on the land and the occupier is not an agricultural or equestrian worker.

Financial test

There is no agricultural or equestrian business/enterprise operating from the land.

The use of the land to station a mobile home for residential purposes does not meet any of the criteria set out in DM11.

Policy MTRA4 of the LPP1 allows for development in the countryside which has an operational need for a countryside location, such as agriculture, horticulture or forestry. The development on site is not associated with any of the use allowances. The storage containers, buildings, shepherds hut, kennel, hardsurfacing etc all appear to be in use in connection with the unauthorised residential aspect. This being because during the visit residential aspects were observed and the storage is in connection with the occupier (washing line, fridges/utilities etc. Some of the storage appears to be on site in connection with the occupiers business. The owner advised the business is not run from the land and so it would appear more ancillary to the residential use. Parking of the business vehicles etc. It is clear that these aspects are not used in connection with agriculture, horticulture or forestry as there is no such use on the land. On the site photos taken for application_19/02474/FUL taken 12th December 2019 the stables appear to be in use for storage, residential type items. Any residential storage use within the stables will also need to be ceased and is to be included within the steps in the notice. Whilst there is an option to seek removal of the stables if they have not been used in their authorised manner and form part of the unauthorised residential use they have been approved for equestrian purposes and so the actual structure used in accordance with the approved plans/decision 19/02474/FUL is acceptable.

There is no approval for the replacement stables to be used in any way for a commercial business – condition 03 on planning application 19/02474/FUL requires that they remain in private use. "The use of the stables hereby permitted shall only be used for private actives and not to be used for any commercial uses." This is important as another indicator that an equestrian business is not operating on the land.

The continued use of land to station a mobile home for residential purposes, along with the associated operational development is unacceptable because it fails to meet the criteria set out in Policy DM11 of the Winchester District Local Plan Review. As such it is also contrary to Policy 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 impact on the character of the area

The site is outside of the settlement boundary, MTRA4 of the LLP1 restricts development for the following: development must have an operational need for the countryside location; reuse existing buildings for employment/tourist/community or affordable housing and capable without use without major reconstruction; expansion of existing building for established businesses; small scale/low key tourist accommodation. The development does not comply with any of the development reasons noted above.

Paragraph 134 of the NPPF states that *'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'*.

Paragraph 174 of the NPPF states that planning decisions *'should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes' and 'recognising the intrinsic character and beauty of the countryside'*.

Policy CP20 of the LPP1 requires new development to conserve local distinctiveness, especially in terms of characteristic materials, trees, built form and layout, tranquillity, sense of place and setting. Policy DM23 of the LPP2 seeks to protect the rural character of the area through the avoidance of visual intrusion, the introduction of incongruous features, the destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment.

Winchester City Council's landscape character assessment (LCA) highlights the importance of Winchester's landscape, both locally and nationally, and the pressures that are being placed upon it. An LCA can help to protect and enhance the strong identity of Winchester's landscape, whilst accommodating necessary development and change. The LCA also aims to highlight trends and issues that are threatening the character of the landscape.

The LCA highlights this area as being *'Generally a peaceful, tranquil landscape with a rural character away from urban influences.'* It also highlights a key issue in this rural area being the gradual proliferation of a suburbanised urban fringe character with a loss of healthland characteristics, visual impact of pony paddocks, prominent structures/urbanisation, a neglect of hedgerows, increased artificial lighting and heavy traffic (LCA p235). The character assessment recommends retaining the rural character resisting outward expansion of Waltham Chase and resist development that would further suburbanise local settlements (LCA p236). This advice is carried forward in to the Local Plan and specifically policies DM15, DM16, DM17 and DM23 which all have the objective of maintaining rural character and distinctiveness. Reference is also made to the Bishops Waltham Village Design statement (2006).

Development should be done in a sympathetic and appropriate nature to reflect the rural setting of the site in accordance with policy CP20 of the LPP1 and policies DM15, DM16, DM17 and DM23 of the LPP2.

The residential use of the land would not currently fulfil this expectation, as it is not typical of the rural nature of the area. 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 character however there is no demonstrable harm in terms of visual intrusion in respect of DM15, DM16, DM17 and DM23.

Site in 2013;



Latest GIS imagery;



In summary, the unauthorised uses and associated operational development are unacceptable and enforcement action is recommended in the form of an enforcement notice. The owner has been afforded ample opportunity to remedy the breach without formal intervention but at this stage formal enforcement action is required.

Nitrates and Solent Disturbance Mitigation

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 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 mitigation in regard to increased nitrates into the Solent SPAs. 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.

Alleged breach

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 caravan in the approximate position marked "X" on the plan;
- (ii) The erection on the land of mobile home, outbuildings, kennel, shepherds hut, solar panels , play equipment, trampoline, vehicles , storage containers to facilitate the unauthorised use in (i).
- (iii) The laying of hardsurfacing to facilitate the stationing of a mobile home and the development in (i) and (ii) above.

The reasons for issuing the notice:

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 Council do not consider that planning permission should be granted because planning conditions could not overcome these objections to the development.

Recommendation and time for compliance:

That an enforcement notice is issued requiring the following steps to be taken:

- 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, trampoline, vehicles, storage containers and all other paraphernalia brought onto the land to facilitate the residential use.
- iii) Dig up 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.

Time for compliance for the notice: 9 months from the date the notice takes effect.

Other courses of action considered but rejected

No further action

This will result in the unlawful development remaining, with associated harm to matters of acknowledged importance and the identified harm would continue. Whilst the Council's powers to pursue action is discretionary, taking account of Government advice and the fact that it is considered to be contrary to planning policies for the area, it is in the public interest, and a proportionate response to the harm caused, to take the proposed course of action.

Human Rights

The Human Rights Act 1998 makes it unlawful for the Council to act in a way incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. In arriving at the recommendation to take enforcement action, careful consideration has been given to the rights set out in the European Convention of Human Rights including Article 6 (right to a fair trial), Article 8 (right to respect for private family life), Article 14 (prohibition of discrimination in enjoyment of convention rights) and Article 1 of the first protocol (the right to peaceful enjoyment of possessions). It is considered that where there is an interference with the rights of the recipient of an enforcement notice, such interference is considered necessary for the following reasons: the protection of the environment and the rights and freedoms of others. It is also considered that such action is proportional to the legitimate aim and in the public interest.

The owner has advised it is him and his wife who live on the land as such 2 no. tenants/ owners would be made homeless by this enforcement notice should it be complied with. An extended period for compliance will be offered to ensure enough time is given to find alternative accommodation. In addition, the tenants will be referred to the Housing team at Winchester City Council for re-housing advice.

Service

The notices are to be hand served where within the Winchester City Council area and via recorded post to others.

Fee = £924.00 (2 x £462.00)

If you require any further information or wish to discuss the matter in more detail, please let me know.

Kate Longley
Planning Enforcement Officer
01962 84801962 848 480 EXT 2602

Enclosed:

I have attached;

- Red line site plan
- Draft enforcement notice
- Land registry

DELEGATED AUTHORITY

I, Lorna Hutchings, being duly authorised to act for and on behalf of Winchester City Council with the powers delegated to me as Planning Delivery and Implementation Manager, do hereby authorise the proposed enforcement action in accordance with the above report and attached draft enforcement notice.



Lorna Hutchings
Planning Delivery and Implementation Manager
Built Environment
Winchester City Council
Date 30.09.2022