

5 October 2009

Graham Warren,  
Graham Warren Ltd,  
The Barn House  
Manor Farm,  
Collingbourne Kingston,  
Marlborough,  
Wiltshire,  
SN8 3SD

Our Ref: APP/E3905/A/08/2090652

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY: LEDA PROPERTIES LTD – LAND AT BUREAU WEST, HORTON  
ROAD, DEVIZES, WILTSHIRE, SN10 2JJ – APPLICATION REF: K/58682/O**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Martin Whitehead LLB BSc(Hons), who held a public local inquiry from 24 March to 26 March 2009 into your client's appeal against the decision of Kennet District Council ('the Council') to refuse outline permission for 172 dwellings, a care home of 2,000 sq m, 875 sq m of light industrial floor space and 1,330 sq m of offices on land at Bureau West, Horton Road, Devizes, Wiltshire, SN10 2JJ in accordance with application reference K/58682/O dated 28 March 2008.

2. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions. The Secretary of State wrote to you on 13 July 2009 and that letter, which forms part of the decision in this case, indicated that the Secretary of State was minded to agree with the Inspector's recommendation, subject to his concerns in relation to the planning obligations being satisfactorily addressed. Copies of both the Secretary of State's letter and the Inspector's Report are enclosed.

Matters arising since the Secretary of State's letter of 13 July 2009

3. Following the Secretary of State's letter of 13 July, you submitted a letter dated 30 July together with revised versions of the two unilateral undertakings and the Section 106 Agreement. These documents were circulated under cover of the Secretary of State's letter of 10 August. You replied with a letter dated 13 August. Copies of this correspondence are available to any party upon written request from the address below.

### Planning obligations

4. The Secretary of State has carefully considered the two Unilateral Undertakings dated 30 July 2009, and the planning agreement between your client and Wiltshire Council dated 30 July 2009, as well as national policy set out in Circular 05/2005. He considers that these planning obligations satisfactorily address the concerns set out at paragraphs 26 and 27 of his letter of 13 July and that they comply with the provisions of sections 106 and 106A of the Town and Country Planning Act 1990

### Overall conclusions

5. For the reasons given above, and in the Secretary of State's letter of 13 July, the Secretary of State concludes that the appeal should be allowed and outline planning permission should be granted.

### Formal decision

6. Accordingly, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for 172 dwellings, a care home of 2,000 sq m, 875 sq m of light industrial floor space and 1,330 sq m of offices on land at Bureau West, Horton Road, Devizes, Wiltshire, SN10 2JJ, subject to the conditions set out at Annex A.

7. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

8. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### Right to challenge this decision

9. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

10. A copy of this letter has been sent to Wiltshire Council and all parties who appeared at the inquiry.

Yours faithfully

**Christine Symes**

Authorised by Secretary of State to sign in that behalf

**CONDITIONS**

- 1 Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4 The details of the layout of the development hereby permitted shall include at least 875 sq m of light industrial floor space, at least 1,330 sq m of office floor space, a care home of at least 2,000 sq m, and no more than 172 dwellings.
- 5 No development shall take place until a programme for the phasing of the development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved programme.
- 6 All soft landscaping comprised in the approved details of landscaping for any particular phase of the development as referred to in the programme for the phasing of development shall be carried out in the first planting and seeding seasons following the occupation of the first building in that particular phase of the development or the completion of that phase of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscaping in any particular phase of the development shall also be carried out in accordance with the approved details prior to the occupation of any part of that phase of the development or the completion of that phase of the development, whichever is the sooner.
- 7 In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 3 years from the first occupation of the building or completion of the development, whichever is earlier.
  - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5837(2005) 'Trees in Relation to Construction'.
  - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

- iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority.
- 8 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all boundary landscape treatment shall be submitted to and approved in writing by the local planning authority prior to the occupation of any phase of the development. The landscape management plan shall be implemented as approved and shall take immediate effect after the first occupation of any building forming part of any phase of the development.
- 9 No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected for all phases of the development (as referred to in the programme for the phasing for the development). The approved boundary treatments for each phase of the development shall be completed in accordance with the plan prior to the first occupation of the first building in that phase.
- 10 No development shall take place until full details of how on-site renewable energy will be provided for the development to reduce CO<sub>2</sub> emissions from energy use by owners/occupiers of the buildings by 10% have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11 The drainage arrangements for the development hereby permitted shall be as specified in the PFA Consulting Flood Risk Assessment, dated April 2007, subject to the 2 road gullies at the entrance to the site being disconnected from the Hopgood Close drainage system.
- 12 No development shall take place until a scheme for water efficiency has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 13 No development shall take place until a Construction Environmental Management Plan incorporating pollution prevention measures has been submitted to and approved in writing by the local planning authority. These measures shall include for all oil and chemical facilities required during construction phases to be sited in bunded areas for the duration of the construction. The capacity of the bunds shall be at least 10% greater than the capacity of the largest storage tank within the bunded area and hydraulically inter-linked tanks shall be regarded as a single tank. There shall be no working connections outside the bunded areas. The plan shall be implemented as approved.
- 14 No development, including clearance/demolition work shall take place until there has been submitted to and approved in writing by the local planning authority a mitigation strategy for the conservation of bats and barn owls, in accordance with

the recommendations of the RPS 'Ecology Survey Update 2008', issued 10 October 2008. Development shall be carried out in accordance with the approved strategy.

- 15 No development shall be take place until the ground floor slab levels for all buildings on the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved levels.
- 16 No part of the development shall be occupied until the existing access to the site from Horton Road is closed, and the kerblines, the footway/cycleway and highway improvements on Horton Road, and the main vehicular access to the site from Horton Road are completed in accordance with Drawing No L121/47 Rev A or L121/48 Rev A and the emergency vehicular access and pedestrian access are completed in accordance with Drawing No VE:05:03:D.
- 17 No building hereby permitted shall be occupied until the access, turning area and parking spaces serving that building have been provided in accordance with details that shall first be submitted to and approved in writing by the local planning authority. The access, turning area and parking spaces shall be retained for those purposes thereafter.
- 18 No building hereby permitted shall be occupied until a Green Travel Plan has been submitted to and approved in writing by the local planning authority. The Green Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with the approved details. The results of the implementation and monitoring and any changes to the plan arising from those results shall be made available to the local planning authority when requested in writing by the local planning authority.
- 19 The development shall not take place until a scheme for the provision of affordable housing as part of the development to comprise solely social rented housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of the total number of housing units;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.