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Wiltshire Council
Development Services
PO BOX 2281
Salisbury
SP2 2HX
By email: -developmentmanagementsouth@wiltshire.gov.uk

3rd March 2011

Dear Sirs

**Town and Country Planning (General Permitted Development) Order 1995
Land at Stonehenge Campsite and Summerfield House, Berwick Road,
Berwick St James**

We act for Mrs Susan Grant. We refer to the above site and to the Article 4 Direction made by the Council on 11 February 2011. The Direction purports to revoke permitted development rights under Classes 4, 5 and 27. We object to the confirmation of the Direction and request that the Council refuses to make the Direction in the terms proposed, or at all. This letter has been prepared following legal advice from Counsel.

Evidence of harm

The Council has failed to set out in any publicly available document why it says it is necessary to make the Direction. The Council is reminded that Article 4 directions are to be made "only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area" (Annex D to Circular 9/95, as amended in November 2010). Further, the Council is required by the terms of the Circular to "*clearly identify the potential harm that the direction is intended to address*". It has completely failed to do so. As a result (i) we are advised any decision to confirm the Direction would be unlawful because no harm has been identified and (ii) our client has been denied the opportunity to make proper representations on the Direction, because she has not been told on what basis the Council say the Direction should be made, again rendering the process of making the Direction unlawful.

In short, the Council is required to give reasons for making the Direction and has failed to do so and further it has failed properly to consult on the Direction by not providing any adequate information to allow our client to respond to the consultation.

Submissions on harm

Given that the Council has failed to set out why it says that the Direction is required, we reserve our position to make further submissions on the question of harm to



amenity or to the proper planning of the area which is said to arise from the use of the land for the purposes in Classes 4, 5 and 27 of the GPDO.

In short, we consider that it is not necessary to make the Direction for any legitimate planning reason:

A perfectly acceptable scheme for the use of the land for camping and caravanning purposes is currently before the Planning Inspectorate. That scheme is acceptable for the reasons set out in the Statement of Case for that appeal, attached for ease of reference (Appendix A);

In terms of harm to the landscape, by their very nature temporary events necessarily have limited impacts and those impacts are largely mitigated on this particular site. It is noted that similar restrictions are not proposed for land elsewhere in the area, despite other sites having a far greater risk of harm in landscape terms from temporary events than this site;

In terms of harm to amenity, although the owners are aware of some local opposition to camping on the land, there is no evidence at all that such opposition justifies excluding all temporary uses from all parts of the land. Much of the land is a considerable distance from the nearest dwellinghouse. There are specific remedies open to the local residents if activities on the site cause a nuisance;

Turning specifically to Class 5, there is no extant site licence for the land and therefore a Direction is not required;

As to Class 27, there is no reason why the presence of exempt organisations on the land is likely to cause any harm in planning terms.

We will make further submissions on these issues when the Council's reasons for making the Direction are provided.

Extent of Direction

The extent of the Direction is self-evidently excessive. As we understand it, from the enforcement action taken by the Council, the Council is concerned by the use of the land for camping and caravanning. The Direction goes well beyond those matters. To remove all permitted development rights under Part 4 Class B is oppressive. Is it really suggested that there would be harm to amenity if, for example, a marquee was erected for a family party on one night of the year? We suggest that there would be no harm and therefore there is no need for a Direction in these terms.

We note that Mrs Grant raised questions about the effect of the Direction on activities other than camping for commercial purposes in her letter to your officer Mr Hawkins dated 14 February 2011. Mr Hawkins replied on 18 February 2011 and stated that the activities sought to be restricted were: -

“perfectly clear, from the activity which has been carried on at the site in particular in the last year, as to the nature and scale of activities that the Direction is seeking to regulate”.

However Mr Hawkins did not explain to Mrs Grant that the true effect of the Direction as drafted extends beyond camping to all temporary uses and moveable structures connected with the permitted use.

Delegated authority

We consider that the Direction has been made unlawfully as the Area Development Manager does not have authority to make such directions.

We are instructed that on 3 June 2010 that the Council's South Area Planning Committee (SAPC) resolved that issues concerning this site should not be dealt with under delegated powers. We are further instructed that the SAPC asked officers to "investigate" making an Article 4 Direction on 16 September 2010. We do not see how a request to "investigate" making a Direction can connote authority to make a Direction. Further, the SAPC only authorised an investigation into a Direction in respect of Classes 4 and 5, and not Class 27, of Schedule 2.

Timing of the Direction

We take the view that the making of the Direction has been deliberately timed to prejudice the Appellant's position at the forthcoming Public Inquiry in respect of appeals against the refusal of planning permission and enforcement notices issued by the Council. We consider that the action of the Council in this regard is entirely inappropriate; the issues raised by the Direction were being canvassed with officers in attempting to agree common ground for that Inquiry and the Council's action, when the jurisdiction over the planning appeals and enforcement notice has been passed to the Secretary of State, is oppressive and arbitrary.

Further, the Direction has been made at a time when bookings have already been taken for temporary events, namely camping, by our Client from Easter onwards. The Council will be fully aware that in taking this action, at this time of year, the maximum possible disruption to this rural business interests will be caused.

We note in this regard that the SAPC asked that the making of a Direction be considered in September 2010. The fact that officers have chosen to wait until this time (February 2011) to make the Direction is indicative of the desire to prejudice the forthcoming appeals and to disrupt the landowner's business.

Service of the Direction

We are instructed that the Council has failed to serve the Direction on Mr William Grant and Fox Grant Ltd, both of whom have interests in the land affected. We therefore remind you of your obligations under Article 5(1) of the GPDO and ask that you now serve the Direction in accordance with those requirements. In light of that, the date that the Direction takes effect will plainly need to be extended to allow those other owners to make representations in respect of the Direction.

Further action

We put you on notice that (i) we are making representations to the Secretary of State to ask that he deal with this matter under his reserve powers and direct that the Direction not be confirmed and (ii) any decision to confirm the Direction is likely to be

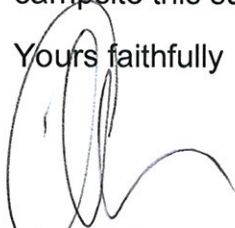
the subject of a claim for judicial review on the basis, among others, of the matters set out above.

Request

We request that the Council does not confirm the Direction. Alternatively, we request that the Direction is amended to address the specific harm which is said to arise from the use of the site. As set out above we are not aware of what harm is said to arise.

Finally, we request that if the Direction is to be confirmed it should not take effect until 1 October 2011 as bookings have been taken for the use of the site as a campsite this summer (2011).

Yours faithfully

A handwritten signature in black ink, appearing to be 'A.M. Allen', written over a circular stamp or seal.

Mr A.M Allen

Director

Land at Summerfield House & Stonehenge Campsite

Berwick Road

Berwick St James

Salisbury

LOCAL PLANNING AUTHORITY REFERENCES:

S/2010/0007

ENF9142

ENF 9142/1

PLANNING INSPECTORATE REFERENCES:

APP/Y3940/C/10/2139334

APP/Y3940/C/10/2142020

APP/Y3940/A/10/2136994

APPEAL INQUIRY: MAY 2011

STATEMENT OF CASE ON BEHALF OF THE APPELLANTS

1.0 Introduction

- 1.1 This Statement of Case is made in respect of appeals under s78 and s174 Town and Country Planning Act 1990 in respect of the decisions of Wiltshire Council (“the LPA”) to refuse planning permission for the use of part of the site for a camping and caravan site and also the service of two enforcement notices relating to the use of the land as a campsite for greater than 28 days (Part 4 of GPDO) and ancillary operational development.
- 1.2 The appeal against the enforcement notice under S174 (2) (a) and the S78 appeal raise similar issues. The Appellants further seek to rely on S174 (2) (f) to the extent that should the Inspector dismiss the appeals under ground (a) and S78 but finds that the requirements of the enforcement notice are excessive.

2.0 Reasons for refusal of planning permission and for issuing the enforcement notices

- 2.1 The following reason was given for refusing planning permission:

“The site is situated within a prominent part of the landscape, which is designated as a Special Landscape Area, and lies against the backdrop of the Winterbourne Stoke Conservation Area. The development of the site as a touring caravan and camping site would have a significant and unacceptable visual impact upon the landscape qualities of the area, including the setting of the Conservation Area, and it is not considered that this harm would be outweighed by economic benefits or could easily be addressed through new landscaping. The development would therefore be contrary to the aims and objectives of the adopted Salisbury District Local Plan, including saved policies G1, G2, C2, C6, CN11 and T9, and the guidance contained within PPS4, PPS5, PPS7 and the Good Practice Guide for Planning and Tourism.”

- 2.2 The reasons for issuing the Enforcement Notices were materially the same as the reasons for refusing planning permission, although potential noise disturbance to neighbouring properties was also included.
- 2.3 The LPA now accept, in common ground, that neither the use of the land nor the operational development undertaken will have a detrimental impact upon the setting of the adjacent Conservation Area.

3.0 Policy

- 3.1 The Appellant will make reference in evidence to National policy specifically within PPS1, 4 & 7 and PPG18. In terms of the principal issues between the parties specific reference will be made to PPS4 & PPS7, which allow for certain forms of “tourism” development within the countryside including tourist uses subject to criteria.
- 3.2 In this regard Policy EC7 of Planning Policy Statement 4 clearly establishes its support for sustainable rural tourism as a benefit to rural business, community and visitors. The policy seeks to avoid such development, which harms the countryside, and advises that LPA’s should: -

“ Support the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres carefully weighing the objective of providing adequate facilities or enhancing visitors enjoyment or improving the financial viability of the facility with the need to protect landscapes and environmentally sensitive sites and wherever possible locating tourist and visitor facilities in existing or replacement buildings, particularly where they are located outside existing settlements. Facilities requiring new buildings in the countryside are short, where possible, be provided in, or close to, service centres or villages that may be justified in other locations where the record facilities are required in conjunction with a particular countryside attraction and there are no suitable existing buildings or develop sites available for reuse.”

3.3 Turning directly to touring caravan and holiday sites Policy EC 7 advises that: -

“.....new or expanded holiday in touring caravan sites and chalet developments are not prominent in the landscape and that any visual intrusion is minimised by effective, high-quality screening.”

Development Plan

3.4 Reference will be made to the Wiltshire & Swindon Structure Plan 2016 especially to Policy RLT10, which advises that proposals for additional camping and touring caravan sites should have regard to their impact on the countryside. The policy adds that such development should not be made within the New Forest Heritage Area and that in Areas of Outstanding Natural Beauty any development should be consistent with the purpose of that designation.

3.5 This site lies neither within the New Forest Heritage Area nor indeed within the AONB.

3.6 The supporting paragraph to this policy, paragraph 8.36, deals with the strategic aim of increasing accommodation through the development of caravan/camping sites. The paragraph adds that this aim is also subject to a need to comply with other strategic priorities and indeed, that the value to tourism depends upon their quality being protected and the satisfactory assimilation into the countryside of all appropriate sites. Finally this paragraph adds that the careful development of tourism in the countryside could do much to improve the economy of rural areas. (our emphasis)

3.7 The Salisbury Local Plan is now of some age but it remains part of the current development plan for the area. Policies G1, G2, C2 & C6 seek, amongst others, the protection of the countryside whilst Policy T9 deals directly with proposals for caravan/camping sites.

3.8 Reference will therefore be made to Policy T9 of the Salisbury District Local plan. This is a permissive policy allowing the provision of new touring caravan sites including locations within the countryside subject to criteria. The policy advises: -

'Elsewhere in the plan area, the establishment of new sites for touring caravans and tents will be allowed within, or adjacent to, settlements or adjacent to the main holiday routes, subject to the following criteria:

sites are well screened from vantage points, highways and residential development and trees and other landscaping materials are planted among the caravan and tent plots as well as around the edges of the site;

the proposals would not adversely effect land of nature conservation value;

there is no direct access from trunk roads or from primary routes where access to a secondary road is feasible; and

the use of the site would not be detrimental to the amenities of the residents of the area and would not conflict with neighbouring land uses.' (our emphasis)

4.0 Issues

4.1 Given the reasons for refusal together with the reasons for the issue of the enforcement notices the Appellant respectfully suggests that in terms of the S78 appeal and the ground (a) appeals that there are the two key issues in this case, namely: -

(i) Whether or not the appeal proposals would have an unacceptable visual impact upon the landscape qualities of the area.

(ii) Whether or not the appeal proposals would have an unacceptable impact upon the amenities of neighbouring residential properties by reason of undue noise and disturbance.

4.2 An assessment of economic benefits of the proposal will also be included as part of the above.

5.0 Planning History

5.1 The Appellant will make reference to the planning history on the site including the use of the site under Parts 4, 5 & 27 of the General Permitted Development Order and also the Report to Committee in respect of the S78 appeal where the professional officers of the council, following detailed consultations, recommended the application for approval, indeed the conclusion to the report identified: -

" The proposal would be acceptable in principle, representing the development of the site of a touring caravans and tents within a location that is adjacent to a settlement and main holiday route. On balance, given the economic benefits deriving from this tourism related proposal, together with the capacity to successfully screen/landscape the site and control the number and siting of pitches, it is considered that the proposal would not result in unacceptable harm to the character and appearance of the area."

5.2 Reference will also be made to the planning history of the overall site and other matters of interest relating directly to the case, which have occurred both prior and post the appeal submissions.

6.0 Need for Tourism and Economic Benefit

- 6.1 The Appellant will assess whether or not there is a current shortfall of tourist related development in the area. Reference will be made to the Salisbury District Tourism Strategy, which on page 4 advises, that tourism is an essential part of the South Wiltshire economy and also identifies the need to improve self catering tourist accommodation (pg18).
- 6.2 Reference will also be made to the Council's Tourism Officer who supported the planning application (the subject of this appeal) identifying a need for additional capacity of touring vans in the area.

7.0 Impact upon the Special Landscape Area

- 7.1 The appeal proposals (S78 appeal) was supported by a detailed landscaping assessment and appraisal, which concludes that views of the site are restricted. Reference will be made to this and evidence will also be provided regarding the extent to which the larger site is visible from the surrounding landscape.
- 7.3 Reference will be made to the amount of the former district of Salisbury identified as comprising either Special Landscape Area or AONB and also to the existence of camping/caravan sites in these areas. Evidence will be provided in respect of the size and location of other campsites in the area.
- 7.4 It is important also to identify that part of the application site was previously used as an intensive livestock rearing unit, which contained a number of substantial agricultural buildings. It will be identified that such buildings associated with this use caused in the Appellant's opinion a negative impact to the visual appearance of the area. Reference will also be made to the character of the area including existing built form on or near the appeal site.
- 7.5 The appeal site lies close to the junction of the main trunk road through the area (A303) and sits within a small pocket of development within the river valley. Reference will be made to the Salisbury District Landscape Character Assessment.
- 7.6 The Appellant will identify that the majority of the works already undertaken on site have occurred in order to produce an effective landscaping screen, which is a direct requirement of development plan policy when considering developments such as that proposed here.
- 7.7 The Appellant will provide further details to enhance current landscaping on site, which will provide an effective additional screen in the medium to longer term (3 to 5 year).
- 7.8 Evidence will be provided to identify that the positioning of the campsite and the associated works on only part of the overall site (see Statement of Common ground) together with existing and proposed landscaping treatment would result in the use being adequately screened in accordance with policy.
- 7.9 The Appellant will conclude that the development controlled in the manner proposed in the S of CG will not detrimentally impact upon the visual amenities of the area.

8.0 Impact on neighbouring properties

8.1 One of the reasons for the service of Enforcement Notice No.1 was the alleged impact that the use of the land would have upon neighbouring properties, and states:

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".... also seriously adversely affected neighbouring and nearby residential amenities, by reason of the undue noise and disturbance caused by activities on the land, in particular late at night, anti-social behaviour and associated coming and goings to and from the land."

8.2 Reference will be made to the Planning System: General Principles - paragraph 29, which advises that the planning system does not exist to protect the private interests of one person against the activities of another. When assessing the impact of a development upon neighbouring properties the guidance advises that the "test" is whether the: -

"..... proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest."

8.3 The Appellant in this regard will make reference and provide evidence in respect of: -

- The areas of the site where the proposed use is to occur (see S of CG) blue and red land
- The distance from the site where the proposed use is to occur from neighbouring properties, including reference to existing and proposed boundary treatments
- Evidence of police complaints in respect of noise/anti social behaviour on the site
- Evidence of Environmental Health complaints in respect of noise/anti social behaviour on the site
- The permitted development rights on the site, subject to an as yet unconfirmed Article 4 Direction.
- The prevention of the playing of any amplified music anywhere on the site (see drawing WGDP1) (See S of CG)
- The location of the NW access which serves the site and its distances from neighbouring properties
- The fact that one of the closest residences to the site is the Appellant's family home

8.4 The Appellant will conclude that the development controlled in the manner proposed in the S of CG will not unacceptably impact upon the residential amenities of any neighbouring properties.

9.0 Ground (c)

- 9.1 Evidence will be submitted to the Inquiry to identify that some of the matters contained within Enforcement Notice number two are considered by the Appellant to constitute permitted development.
- 9.2 If these matters cannot be agreed through common ground then evidence to support these submissions will be made.

10.0 Ground (e)

- 10.1 The Appellant will submit that the enforcement notices were not correctly served on all parties with an interest in the land, and that no up-to-date information of landownership was sought by the Local Planning Authority prior to the serving of the notices themselves.
- 10.2 It will be submitted that there was sufficient time, without detriment to the local planning authority's case, to obtain the necessary information from the Appellant prior to the service of the Notices themselves.

11.0 Ground (f)

- 11.1 The Appellant will invite the Inspector to amend the enforcement notice if the ground (a) appeal is not allowed but it is found that some elements of the notice are excessive.
- 11.2 Evidence will be provided to the Inquiry in terms of permitted development rights applicable to the site and the existing development permitted on and around the site, unless such is agreed in the Statement of Common Ground.

12.0 Ground (g)

- 12.1 The Appellant will demonstrate that the 3 month time limit for compliance with the enforcement notice is too short. The Appellant will show that the works cannot be completed within such a time period.
- 12.2 The Appellants will further demonstrate that certain steps will remove the potential for vehicular access to parts of the site unless such can be agreed in Common Ground.

13.0 Conclusions

- 13.1 The Appellant will submit that the section 78 and ground (a) appeals would give the controls offered in the statement of common ground, result in a development which would provide much-needed tourism accommodation, that will provide economic benefit locally and to the wider area, in a location which is both policy compliant and which would not have an adverse impact upon the visual appearance of the area, especially given the potential for further control of landscaping via conditions.
- 13.2 The Appellant will submit a further landscaping scheme above that already undertaken which will assist in minimising visual intrusion from the proposed use.

- 13.3 In addition the Appellant will submit that the control of the site offered in the statement of common ground would avoid any unacceptable impact upon the residential amenities of neighbouring properties.
- 13.4 It is hoped that the matters contained within the other grounds of appeal can be addressed or reduced through common ground.
- 13.5 In light of the above the appellant will seek the Inspector to approve the Section 78 appeal subject to conditions and also to grant planning permission for the remainder of the site, via the ground (a) appeals, and subject to further restriction by a condition.
- 13.6 The Appellant reserves the right to make further submissions once the LPA Statement of Case has been submitted.