

The Planning Inspectorate
Room 3B
Temple Quay House
Temple Quay House
2 The Square
Bristol BS1 6PN

Your refs: APP/L1765/W/20/3247907
& APP/L1765/C/20/3248934

17th August 2020

Dear Sasha Coke

**Appeals by Mr G Atkinson re. use of land to the rear of 5 Hillside,
Kitnocks Hill, Curdridge in Hampshire as residential garden.**

Composite application for reimbursement of the Appellant's appeal costs.

INTRODUCTION. Your composite 'start' letter dated 28th May 2020 stated that '*Costs can be awarded in this type of appeal*' and Section 16-035-20140306 of Planning Practice Guidance states that '*In the case of appeals determined via written representations, the costs application must be made in writing by any party no later than the final comments stage*'; it was helpfully agreed on 15th July that stage will not be reached until 20th August, so this combined application is timely. Section 16-030-20140306 of Planning Practice Guidance (PPG) indicates that costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary expense in the appeal process. That same provision of the PPG states that '*Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons*'. It is submitted that the Members of Winchester City Council's Planning Committee behaved unreasonably, as their rejection of planning application 19/02468/FUL was not founded upon informed judgements or valid planning reasons and the Officers behaved unreasonably by their service of an Enforcement Notice, for which a specific committee instruction had not been given.

1. The Members failed to accord due weight to a particular material consideration, namely their own decision regarding residential garden use of agricultural land at Church Road, Newtown in 2015, to which attention had been drawn in Robert Tutton's letter dated 6th November 2019 (submitted with the original application) and reiterated in his deputation to the Planning Committee meeting on 18th February 2020. In granting consent in 2015, Members of the Planning Committee had recognised that Core Strategy Policy MTRA4 made no specific reference to a change of use of agricultural land to residential garden. The Members' disregard of a relevant provision of the development plan (to which their attention was explicitly drawn) constituted unreasonable behaviour.

2. The Members also failed to accord due weight to other material considerations, namely the previous decisions by Inspector Clarke at Waltham Chase in 1983, Inspector Holt at North Boarhunt in 2001, Inspector Mair at Exton in 2006 and Inspector Stone at Wickham in 2018 - all four appeals were allowed and permission granted for residential garden use within areas of countryside, because neither national nor local policies generated a presumption against such use. Explicit attention had been drawn to those cases in Robert

Tutton's letter dated 8th November 2019 (submitted with the application) and reiterated in his deputation to the Planning Committee on 18th February 2020. Consistency of decision-making is surely a basic tenet of good public administration. The Members' failure to take account of material considerations (namely, four previous appeal decisions relating to land in Winchester district) constituted unreasonable behaviour.

3. The Officers' recommendation to grant permission at 5 Hillside derived directly from the case officer's assessment at the site on 4th December 2019. If Members of the Planning Committee were uncomfortable with the Officers' recommendation, the procedural facility was available to them to defer determination of the application on 18th February and instruct the Planning (Viewing) Sub-Committee to visit the site; no advantage was taken of that opportunity. Members of the Planning Committee failed to directly inform themselves of the prospective impact of the proposal and closed their minds to the prospect that the proposed use would leave the character and appearance of the local countryside unharmed; their failure constituted unreasonable behaviour.

4. The charge that residential garden use could lead to '*...domestication...through the introduction of residential paraphernalia*' had been laid by the Officers of Winchester City Council as part of their refusal (exercising delegated powers) of application 17/01203/FUL in July 2017 but (as Appendix 7 of the Grounds of Appeal showed) that decision was successfully challenged at appeal. In light of the clear lead that was given by Inspector Stone in 2017, the Officers have since recognised that a planning condition can be imposed to alleviate such concern. '*Domestication*' was not a word used by any of the Planning Committee Members in their debate about Grant Atkinson's application, yet it appeared from nowhere on the decision notice. As it is the Member's actual *decision* on 18th February 2020 that is at issue here (not the Officers' *interpretation* of it), the introduction of the '*domestication*' charge after the event constituted unreasonable behaviour.

SUBMISSION. It is submitted that the Members of Winchester City Council's Planning Committee behaved unreasonably by their rejection of a proposal which accorded with the development plan; they failed to take material considerations into account; and they consequently made a decision which was inconsistent with determinations that they themselves had previously made; clearly, permission should have been granted. As a consequence of the unreasonable behaviour by Members of the Winchester Planning Committee, Grant Atkinson has been obliged to incur unnecessary expenditure by the prosecution of these appeals. The Secretary of State for Housing, Communities and Local Government is requested to direct Winchester City Council to fully reimburse Grant Atkinson for the costs that he has been obliged to incur in the prosecution of these appeals.

Yours sincerely



Robert Tutton
Director