

# DNC

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9th January 2015

Our Ref: DNC/402

Dear Mr Hogger

**Re: Fareham BC Development Sites & Policies: Actions Arising From Hearings**

I act for JHE Global Ltd, the owner of the land edged and hatched red on the Council's plan attached to this letter as Appendix A. We are grateful that we have been given the opportunity to comment in relation to the proposed amendments to the Fareham Borough Council Local Plan Part 2 - Development Sites and Policies Plan, Issue 7.

The land in the ownership of my client forms part of the designated Housing Site H7 - Land at Fleet End Road, Warsash. This was previously designated as Housing Allocation Area 14 in earlier Adopted Local Plans dating back as far as the 1980's.

The whole of the original allocation is in several ownerships. In the early 1990's part of the land was developed by Amplevine Plc, now known as Shorewood Close, with direct access from Fleet End Road, (highlighted yellow on Appendix A)

The next part of the allocation forms part of the Jolly Sailor Public House and is currently used as their pub garden, (highlighted blue on Appendix A). The freehold of the Public House is owned by Enterprise Inns and neither they, or their tenants for the last twenty years, have shown an interest in selling the land to enable the remainder of the development to be implemented. The tenancy has recently changed hands and the new tenants have a ten year lease which they have recently entered into.

We also understand that as a result of the original developer of Shorewood Close not being able to purchase the land from the Public House, that they may have retained a ransom strip between the end of the adopted highway and the boundary with the Public House Garden.

The next two parcels of land are owned by Kebbel Homes Ltd, (highlighted green on Appendix A) and Mr and Mrs Kelly, (highlighted orange on Appendix A) who have also attempted various unsuccessful planning applications seeking an alternative means of access to their land. Whilst these applications have been refused, the Council have accepted that with certain levels of improvement there

may be alternative means of access to the allocated land, albeit for more limited development.

The final part of the land is my clients land. It is currently part of the garden of no 32 Green Lane, which was constructed by my client in 2005 and is accessed from Green Lane.

The development of this site has been prevented from proceeding due to the landowners on the remaining adjacent allocated land being unable to formulate a viable agreement to facilitate access and this has been the case for many years.

Therefore my clients have proactively sought an alternative way of accessing their land and achieving a planning consent independent of the land to the north which to date has proved fruitless in coming forward.

The most recent application submitted under reference no. P/14/0341/FP for the proposed erection of two detached dwellings with garages and parking and access from Green Lane was fully supported by the Council's Officer's who recommended that planning permission should be granted.

However, primarily due to objections from third parties the committee ignored this recommendation and refused the application.

An Appeal has been submitted under reference no APP/A1720/A/14/2228107 to the Planning Inspectorate and all evidence has now been submitted and the Inspector's site visit was carried out on 5<sup>th</sup> January 2015 and the decision is awaited.

My client therefore objects to the proposed amendment to the wording in relation to H7 in that access to the site should be *restricted to Shorewood Close*.

In the first instance, my client fully accepts that Green Lane is not capable of providing access for the comprehensive development of the whole of H7 and that has never been his intention.

Secondly, my clients' land is constrained by protected trees which substantially reduce the potential density of development on this part of the site and make it different to the remainder of the allocated land to the north.

The applications submitted have only been for two additional dwellings served from Green Lane which includes an offer to carry out improvements to the surface of the length of the lane and to reconstruct and reposition the currently substandard junction of Green Lane with Fleet End Road by utilizing land acquired from no 91 Fleet End Road. This not only overcomes the principle reasons for refusal of previous applications on this land but also provides significant gain on highway safety grounds which benefit every existing householder in Green Lane and users of the surrounding highway network.

Green Lane is classified as a private street therefore having the status of a public highway but maintained by its frontagers. My client has taken all reasonable steps prior to the submission of applications in respect of the site to satisfy himself that he has all rights necessary to be in a position to implement any Planning

Permission in its entirety, including substantial legal searches and advice and subsequently, Counsel's opinion.

My clients' land at 32 Green Lane has all necessary rights over the entire length of Green Lane in that in the first instance, unimpeded access rights have been established for a period of in excess of twenty years but in any event, it is a public highway.

All parties accept that the lane is currently in a poor condition and the surface requires improvement works. However, it is clear that the current owners in Green Lane have not been complying with their obligations to maintain the lane at the frontage of their properties and they and the Council are now using the poor condition of the lane as a reason for attempting to prevent further development from taking place, to substantiate the Committee's decision.

There has been no change in circumstances to persuade my client that access will ever be achieved solely from Shorewood Close given the land ownership constraints outlined above. The Council have recognised this in identifying other potential access points which could enable development albeit on a reduced scale and on the basis that certain improvements are made.

We see no issue with the previous wording which identified this but perhaps the labeling on the accompanying plan could have identified Shorewood Close as the preferred point of access but with the other two labeled as potential alternatives subject to improvement and reduced density in terms of housing numbers.

We would respectfully request that the proposed further changes relating to restricting access solely to Shorewood Close be reconsidered and reworded taking account of this.

Yours sincerely,

**DAVID NEWELL**