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APPEAL AGAINST THE REFUSAL OF PLANNING PERMISSION (ref DC/24/1022) BY HORSHAM DISTRICT COUNCIL

FOR

VARIATION OF CONDITION 14 OF PREVIOUSLY APPROVED APPLICATION DC/23/1108 (NON-MATERIAL AMENDMENT TO PREVIOUSLY APPROVED APPLICATION PL/107/03 (ERECTION OF 1 BUNGALOW, SITE: MOUNT VIEW STANE STREET NORTH HEATH) TO ADD A 'PLANS' CONDITION TO THE APPROVAL LETTER TO INCLUDE THE MOST RECENT APPROVED DRAWINGS) TO VARY THE DESIGN AND SCALE OF THE BUILDING

AT

MOUNT VIEW, STANE STREET, NORTH HEATH, PULBOROUGH, RH20 1DN

RESPONSE TO LPA'S STATEMENT OF CASE

APPEAL REF: APP/Z3825/W/25/3363210

RTPI Chartered Town Planner

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1. INTRODUCTION

1.1 This statement is submitted in response to the LPA's Statement of Case (letter dated 12th May 2025), relating to an appeal (ref APP/Z3825/W/25/3363210) against the refusal of planning application reference DC/24/1022 by Horsham District Council for the variation of condition 14 of previously approved application DC/23/1108 (Non Material Amendment to previously approved application PL/107/03 (Erection of 1 bungalow, site: Mount View Stane Street North Heath) to add a 'plans' condition to the approval letter to include the most recent approved drawings) to vary the design and scale of the building.

1.2 It should be read in conjunction with the Appellant's original Appeal Statement and does not seek to repeat the arguments in full that are within that Statement.

2. LPA'S STATEMENT OF CASE

2.1 The LPA's statement explains that conditions 7, 8 and 11 are considered conditions precedent which go to the heart of the permission, and as such would have required discharging prior to implementation of the permission, for it to be considered to have been lawfully implemented. However, this contradicts previous advice from the LPA that conditions 2, 7 and 8 were considered conditions precedent (see Appendix 4 submitted with the original Appeal Statement).

2.2 It appears therefore not only unclear even to the LPA which conditions are considered conditions precedent, but also that the LPA's position has changed with regard to Condition 2, which they no longer consider to be a true condition precedent which goes to the heart of the permission. With regard to Conditions 7 and 8, as explained in the Appellant's original Appeal Statement, for Condition 7, the information could have been submitted prior to the floors being installed and again does not affect the commencement of foundations. Condition 8 could have been worded such that the details were agreed prior to any drainage being installed. None of these therefore have been affected by the commencement of piling of the foundations and they should not have been automatically worded as pre-commencement conditions. Such details could still be submitted now, without any changes required to what has already been installed.

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2.3 The LPA's Appeal Statement now introduces Condition 11 which they state is a true condition precedent which goes to the heart of the permission. However, the details required by Condition 11 can be submitted prior to any construction of the roads and parking areas being carried out, and prior to any drainage being installed. This is not a condition requiring a Construction Management Plan, with the reason being "to secure satisfactory standards of access and drainage for the development", and so relates to the final layout of the development, rather than any issue during the construction period. Again, the development that has already been constructed on the site would not prevent such details being submitted now, without any changes to the existing construction having to take place. This therefore demonstrates that this condition, as well as the above, did not need to be pre-commencement conditions.

2.4 Notwithstanding the above, Condition 11 itself appears to be a slightly odd condition to impose on a development for one dwelling in any case. It refers to "roads, footpaths and casual parking areas" in the plural, as if it should apply to a development of many houses. It also states "no dwelling shall be occupied…" however again, only one dwelling is proposed. The approved block plan (14/02-01 Rev A dated Oct 2003) clearly shows the layout of the road, and the parking area for the one dwelling. No footpaths at all are proposed as part of the development. Therefore, it is not clear why this condition is even required or what further details the LPA was hoping to receive that were not already set out on the plans.

2.5 It is considered therefore that these conditions did not need to be worded as pre-commencement conditions, and in the case of Condition 11 did not need to be applied at all. It is not considered that they are true conditions precedent which go to the heart of the permission and as such the development can be considered to have lawfully commenced.

2.6 It is noted that the LPA has not commented on the other facts set out in the Appellant's Appeal Statement that:

- There were no formal applications to discharge conditions in the period following the grant of permission in 2003 so it would have been a letter only
- The LPA's records around that time are not complete
- The LPA have no evidence to the contrary, i.e. no evidence that they were not discharged
- Building control were satisfied that the development had commenced in the relevant period

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- The Applications Team Leader advised that if building control were satisfied it had commenced, then the LPA would not take a different view

2.7 The above means that not only could the conditions have been discharged, as the Appellant was told by the previous Owner, but also that the LPA has again changed its mind on its position on the proposal (see Appendix 2 attached to Appellant's Appeal Statement).

2.8 With regards to the second refusal reason (Water Neutrality), as set out in the original Appeal Statement, it is the Appellant's position that the application has been lawfully implemented and as such, this does not apply. The Appellant would be able to install the water efficiency measures as set out in the submitted Water Neutrality Report instead.

2.9 With regard to the proposed conditions submitted by the LPA, should the Inspector be minded to allow the Appeal, Condition 2 would not be relevant as if allowed then the development has been deemed to have already lawfully commenced. Similarly, conditions 3 and 4 will need to be worded differently from "no development shall commence", given that development has already commenced. Condition 3 could begin "no drainage shall be installed until..", Condition 4 as "no development above ground floor slab level shall commence until…", similar to Condition 5. Again, this would not affect what has already been built.

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