# FINAL COMMENTS

# OF

# SOUTH STAFFORDSHIRE DISTRICT COUNCIL

**S174 APPEAL**

**PLANNING INSPECTORATE REFERENCE**

**APP/C3430/C/23/3322739**

**APPEAL BY:** MS JAYNE GOODWIN

**APPEAL SITE:** UPPER HATTONS STABLES, PENDEFORD HALL LANE, COVEN, WOLVERHAMPTON WV9 5BD

**LOCAL AUTHORITY REFERENCE:** 22/00083/UNDEV

## 1. INTRODUCTION

1.1 These Final Comments have been prepared in response to the Appellants Statement of Case ("the Appellants Statement") in relation to the appeal in respect of respect of land, ("the Land") at Upper Hattons Stables, Pendeford Hall Lane, Coven Wolverhampton WV9 5BD. They should be read in conjunction with the LPA's Statement of Case (SoC) and associated appendices.

2.2 These Final Comments are brief as the LPA considers it has addressed the relevant policy considerations through the Enforcement Notice ("the Notice") and in its SoC in relation to the harm to the Green Belt and the case for 'very special circumstances' and would be merely repeating the submissions it has already made.

## 2. THE GROUND G APPEAL

2.1 In consideration of an extension of time for compliance with the Notice under Ground G, the Appellants Statement refers to **Bhandal v Secretary of State for Housing, Communities and Local Government and Bromsgrove District Council [2020] EWHC 2724 (Admin).** Paragraph 26 of the Appellants Statement in reference to that case states:

> *"The Inspector took a narrow view of his power to grant planning permission and consequently failed to exercise his judgment as to the planning merits of the alternative options proposed by the Appellants. In that case, the enforcement notice related to a sun room constructed as a replacement for a previous structure; planning permission had been granted for a replacement, but the design of the roof and upper section of the sun room as constructed deferred from that approved scheme. The enforcement notice required the demolition of the sun room in its entirety. The Appellants put forward a series of schemes as alternatives to complete demolition, including alternative Option B, comprising the removal of the unauthorised roof and its replacement with a flat glazed roof; and Option C, comprising again the replacement of the roof, but with a design which complied with the earlier planning permission".*

Further:

> *"The Inspector rejected the appeal under ground (a) in the context of these two alternative schemes, on the basis that, regardless of the merits of the alternatives, it was outwith his powers to grant planning permission due to their necessitating new works– as cited in the Judgement (para 11) as to Option B…."*

And in conclusion at paragraph 31:

> *27. If the inspector was right in this case to take a very narrow view of the power under s177(1)(a) to grant planning permission, then equally the planning authority's own discretion pursuant to s70C to refuse to entertain a like planning application would be narrow. While applicants should not get two bites of the cherry, as Natalie Lieven QC (as she was*

*then) demonstrated in Banghard, they must get one. The Bhandals are therefore entitled to have the planning merits of their alternative scheme considered* ****either as part of the appeal process pursuant to s177(1)(a) or as a freestanding application for planning permission without the restriction imposed by s70C****."* *LPA Emphasis

2.2 The LPA contends that this judgement relates to **either** the consideration of an alternative scheme as part of the appeal process, or as a freestanding application. The LPA respectfully submits that the Inspector has the information from the Appellant to consider an alternative scheme, (such as has been submitted by the Appellant) as part of this appeal process. It is not then open to the Inspector to grant a further period of time within which to allow the Appellant to submit a fresh freestanding application. As such, an extension of time to allow this to take place cannot be given. The LPA contends that even if the Inspector did give such an extension for these purposes, it does not consider there is anything to prevent the LPA in refusing to determine such an application under s70C. Indeed, given that it is clear that the Appellant wishes to retain the as built development in its current form with the resultant ongoing harm to the Green Belt, it is likely that such an application will be refused to be determined by the LPA under s70C.

## 3. THE GROUND A APPEAL

3.1 The LPA refers to paragraph 9.20 of its SoC in relation to a lack of information that the proposed development would be beneficial to the local economy. Whilst the Appellant herself has made a statement, she states that she currently employs 7 full-time and 3 part-time staff across the business. She does not state how the development would result in an increase in staff that would benefit the local economy and whilst paragraph 3.7 of the 'Berry's Planning Statement' refers to employment and economic development is relation to providing employment, it too is silent on this.

3.2 In addition, the LPA has assessed this as a larger scale equine enterprise. There is a clear lack of information as to how the benefit to the local economy would override the significant harm to the Green Belt as would be required to align with Policy EV7. The statements from those using the services of Upper Hattons Stables demonstrate how useful the facilities are of benefit to clients such as Bespoke Training and Education and the end users who have provided written testimonials, but it has not been demonstrated why such an expansion of facilities is required. In particular, it has not been demonstrated why the existing stables which are substantial cannot be refurbished in lieu of the construction of the development subject of the Notice.

3.3 Paragraph 21 from 'Bespoke Training & Education' and Paragraph 48 of Jayne Goodwin's statement confirms that the purpose of the new stable block is to run the training and education courses from a 'bespoke' and 'separate area'. The stables will not be used in connection with the riding school or livery. The provision of separate, independent facilities for the animal/equine welfare education courses would not fall into the definition of appropriate facilities for outdoor sport or recreation and is thus inappropriate development by definition.

As the facilities are not required for ‘outdoor recreation, and the use is predominately for educational/teaching purposes, Very Special Circumstances will need to be clearly demonstrated.

3.4 The statement from K A Thompson accounting alludes to some of the reasoning why the old stable block building is unsuitable relating to a reduction of maintenance costs. However, this does not justify the erection of a significant new stable block building within the Green Belt with the resultant harm that has already been identified, nor can it be said to represent ‘very special circumstances’ for its retention.

3.5 Paragraph 52.7 of the Appellants Statement appears to confirm that there are no further benefits from the development stating that there is in fact no intensification of the business use, confirming that the business has the ability to operate efficiently and in line with its historic use in the absence of the development. No doubt in its absence, they are able to consider a refurbishment of the existing stable block building and continue the operation of the business with the minimum of disruption. The LPA maintains therefore that on the basis of its submissions the deemed planning application under Ground A should be dismissed and the Notice upheld.