

Mr N Leach
Council Solicitor
Havant Borough Council
Public Service Plaza
Civic Centre
Havant
PO9 2AX

Our ref: BBG/MFO1-1
Your ref: NL/Plan-Enf/
Tel: 020 3319 3700

28th July 2017

Dear Sir,

The Wellington Inn, 73 London Road, Waterlooville, Hants PO7 7EX

We are instructed on behalf of M Forfar Limited, owner of the Wellington Inn, and in particular the issues surrounding the service of the recent Building Preservation Notice dated 12th July 2017 ("the Notice")

On 12th April 2017 the Council granted prior approval consent (Ref: 17/00282) for demolition of the Wellington Inn under Schedule 2, Part 11, of the GPDO ("the Prior Approval"). Legislative changes were subsequently introduced by the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017 ("the Amendment Order"), which removed these permitted development rights with effect from 23rd May 2017. It is clear, however, that the current situation is fully covered by the transitional arrangements which are set out within the Amendment Order, and so the Prior Approval consent is unaffected by that statutory instrument. Accordingly, the Notice which has been served on our client does not have the legal effect which it purports to have.

It is unclear why the Council has taken this step in light of the clear communication received from Lewis Oliver on 21 June 2017, with the benefit of his own internal legal advice, when dealing with the re-development scheme planning application (Ref: APP/17/00442) – see attached email. It has also been confirmed by the planning agent acting on behalf of our client that during the negotiations of both Prior Approval and the recently refused planning application, that the Council raised no concern regarding the demolition of the building prior to issuing the Notice. We are therefore at a loss to understand what has caused such a change of approach, or did it simply not occur to officers when serving the Notice that a building which has already been authorised for demolition is not capable of being protected in this way?

In our view the Notice infringes the private property rights of the owner (such as are protected by the EU Convention), and is illegal. The Notice needs to be withdrawn, therefore we ask you now to confirm that you will take this action immediately. Given the risk of criminal liability this is a serious matter and our client is prepared to take judicial review proceedings unless a satisfactory response is received within 7 days of this letter.

The Council is at liberty to revoke the Prior Approval by statutory means, but of course this would also involve the Council making a compensatory payment to our client.

Our client will also be appealing the Council's refusal of its application for proposed re-development for retail with flats above (Ref: APP/17/00442). Nevertheless, whilst it is our client's current intention to demolish the building, the client is open to negotiations that might result in a revised planning application that preserves elements of the current building. Any planning consent for an alternative scheme would need to be granted expeditiously, however this potential scenario does offer the prospect of a more suitable resolution for all parties.

We look forward to hearing from you urgently by return.

Yours faithfully,


Keystone Law

Ben Garbett

Subject: the wellington/forfar

From: Lewis Oliver [<mailto:Lewis.Oliver@havant.gov.uk>]

Sent: 21 June 2017 09:23

To: Darryl Howells <darryl@puretownplanning.co.uk>

Subject: RE: The Wellington Public House Waterlooville (LPA ref APP/17/00442)

Dear Darryl,

Thank you for your email and attachments.

I have considered the revised plans and have discussed them with my team leader. The proposal does not alter the scale, massing or bulk facing the sensitive corner of London Road and Chapel Lane. I have noted that you have proposed an element of landscaping to soften the development at this point, however this is an insignificant addition and would achieve little in softening the development and its overall bulk. Regarding the amendments to the south west elevation, in the form of the stepped arrangement, it is noted that you have undertaken this element to reduce the bulk of the development. However whilst it has reduced the size and scale by an element, it has created a building that from the front elevation would appear unbalanced and would appear incongruous in the street scene. As such this proposal, in my view, requires a fundamental revision in terms of the overall design, size, scale and massing. It is my view that whilst altered, this revised proposal does not address the concerns about the overall size, scale, massing and design of the proposal.

Therefore given the above, we will be determining the application on the originally submitted plans as the revised documents do not address our concerns, and in addition, they have not been subject to public consultation. As such the LPA will be determining the application by Friday 23rd June, unless you wish to withdraw this application. Whilst I appreciate that this may be disappointing to you, the LPA have not acted unreasonably and have pro-actively engaged with you on this application. Furthermore no pre-application was submitted on this site, when these concerns would have come to light. We are happy to engage and discuss potential development opportunities after the application has been determined, through our pre-application process.

With regard to your query about the fall back position of the prior approval, I have discussed the matter with our legal team. The proposed transitional arrangements provide for cases such as this. Having looked through these appropriate arrangements it would appear that the criteria laid out indicates that the development is permitted in accordance with the terms of the permitted rights before withdrawal by the Amendment Order. In accordance with those terms, any development must be completed within one year.

Regards

Lewis

