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8th February 2024
BY EMAIL TO: becky.jones@wiltshire.gov.uk

Becky Jones
Senior Planning Officer
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
BA14 8JN

Dear Becky

**LDC Application: PL/2023/10702 – Use of land for purposes incidental to the enjoyment of adjacent residential property**

**Bevisfield, Cow Drove, Chilmark SP3 5AJ**

I act on behalf of Mr & Mrs Goodenough who own Littledown which is the property to the east of Bevisfield on the opposite side of Cow Drove and have been invited to respond to the comments raised by the agent for the applicants in their email to you of 31st January 2024.

1. The application site includes the buildings known as the large barn, the small barn and the stables. It also includes the whole of the red-line area for 'use of land' for the purposes of being incidental to the enjoyment of Bevisfield.
2. Due to the fact that the current owners haven't been in situ for the 10 years prior to the submission of the application, they are forced to rely upon third party evidence. Mr Brinton sets out a statutory declaration setting out how the buildings and land have been used since

October 2017 (however it is noted that this is disputed in the submission by Mr Goodenough questioning whether the subject land and buildings have been used for partially for purposes in association with the business of the applicant rather than as incidental residential use). Notwithstanding those issues, for the period from December 2013 to October 2017 the applicant is forced to rely upon the evidence provided by Mr Williams. It is noted that Mr Williams has not provided a statutory declaration in support of this application – in fact he has submitted a representation clearly stating that the subject buildings and land were not used by him for an incidental planning use between the dates relevant to the determination of this application. It is therefore evident that the local planning authority can only refuse this application based upon paragraph 006 of the central government guidance on such applications as set out below. The applicant has not provided sufficient information to support the application (zero evidence provided between December 2013 and October 2017 as noted on the cover letter for the application from the agent dated 6th December 2023). Furthermore, there has been evidence from 'others' (ie Mr Williams) which directly contradicts how the applicant purports the land and buildings to have been used between December 2013 and October 2017). The comments provided by Mr Williams in his representation are very clear and precise. Should the local planning authority determine to grant this certificate despite the clear and precise evidence then they would be on unsafe ground with the potential for a judicial review against the local planning authority.

> The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.
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> In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

3. The agent for the applicant is attempting to salvage the use of the large barn as being in incidental use based upon Mr Williams comments of 24th July 2023 in relation to LPA Reference PL/2023/04652. Mr Williams only confirms the use of the barn at a snapshot in time (July 2012). He offers zero evidence as to how any of the three buildings or the land was used between December 2013 and October 2017 in his 24th July 2023 representation. Again, there is zero evidence provided in that representation which can assist the applicant in the subject case to prove use of the land and buildings for the purposes incidental to the enjoyment of Bevisfield and the local planning authority would be leaving themselves wide open to a legal challenge if they determined to approve this application because of Mr Williams' 24th July 2023 representation.
4. The agent references a 2002 permission for the erection of three stables and that they contained a permission for ancillary use – again this has no bearing on the evidence of how the subject land and buildings were used between December 2013 and October 2017.

***Summary***

The applicant can only prove the use of the land from October 2017 to the present (and this is disputed as to whether there has been a commercial use rather than an incidental residential use between 2018 and 2022). The regulations are clear that 10 years of continuous use is required in order for the Certificate to be issued and such evidence has clearly not been provided.

Yours sincerely

*James Cain*

James Cain MA(Hons), MPlan, MRTPI (Director)