

Inquiry/Hearing Enforcement Case Officer
The Planning Inspectorate
3B Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

1 – 4 South Park Court
Hobson Street
Macclesfield
Cheshire
SK11 8BS

Macclesfield: 01 625 433881
Chester: 01244 732447

support@emeryplanning.com
www.emeryplanning.com

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EP ref: 22-166

Rawdon Gascoigne
T: 01625 442 796
rawdongascoigne@emeryplanning.com

Sent by email: TeamE1@planninginspectorate.gov.uk

Dear Sir or Madam

Re: APP/H1033/C/22/3297854 - Taxal Edge, Macclesfield Road, Whaley Bridge

We write in connection with the above referenced enforcement appeal and following receipt of the Council's statement of case. As you are aware, the appeal is being dealt with by way of Public Inquiry and has been conjoined with a S78 appeal (reference APP/H1033/W/21/3272745) which itself had been delayed in light of the Council introducing evidence at the opening of the hearing which related to the lawfulness of the building subject to this appeal. In those circumstances we would look to address the Council's statement through the preparation of evidence and did not intend to comment in detail on the Statement of Case at this point. However, there are a number of points that arise that we consider need to be referenced at this point.

We note that the Council consider that the building cannot or did not benefit from permitted development rights in respect of the alterations that have been carried out on the basis that the conversion was not implemented in accordance with the planning permission (reference HPK/2009/0689). That is not what has been alleged in the notice but rather that the alterations to the windows and the addition of the dormers are unauthorised development. The Council have not alleged that the use of the former classroom block as a dwelling is unauthorised and yet now raise it as part of their case. The appellant has previously provided extensive information in relation to both



the implementation of the permission relating to the conversion of the classroom block or at the very least the fact that it has been in use for residential purposes for well in excess of 4 years and would be lawful in the absence of a lawful consent.

We consider that this evolvement and expansion of the Council's case is symptomatic of their approach in relation to the appeals on this site and reflects the lack of proper research and assessment of the evidence prior to the service of the enforcement notice. The appellant actually sought to engage with the Council and clarify what their concerns were in respect of alleged unauthorised development when the matter was first raised. The Council did not respond or engage with the appellant but then proceeded to serve the enforcement notice subject to this appeal. That in itself has also led to substantial delays to the re-scheduling of the delayed and now conjoined S78 appeal which was subject to allegations of unauthorised development via late evidence being submitted at the opening of the hearing. We would add that this could have largely been avoided had the appellants original request for the S78 appeal to be heard by way of Inquiry been accepted as it would have allowed that late evidence to have been properly examined without adjournment and delay.

It remains the case that the appellant has been willing to engage with the Council and provide all the evidence that would have addressed their concerns over the lawfulness of the former classroom block both in terms of its use and the alterations referred to in the enforcement notice, indeed, a large amount of that information has already been submitted via the statements for the S78 appeal. We consider that the evidence will allow the enforcement notice to be withdrawn and avoid further unnecessary time and expense to be spent at Inquiry on the matter and could have avoided the Notice being served in the first instance if the Council had followed their own enforcement procedures and properly investigated the matter and engaged with the appellant in the first instance.

Whilst we have not commented in detail on the Council's statement of case we now intend to submit a detailed Statement of Common Ground in respect of the evidence relating to the former classroom block which, as stated above, we consider should allow the Council to withdraw the notice and allow the case for the S78 residential development appeal to be significantly more focussed. We would also emphasise the need for an Inquiry date to now be set as a matter of urgency as this overall appeal process has now extended beyond 2 years with a concern that it will be over 12 months since the hearing was suspended before it reconvenes as an Inquiry and they are delays and costs which the appellant cannot be expected to simply accept.

We will keep you updated with regards progress on negotiations with the Council to seek withdrawal of the notice and will await confirmation of the earliest possible Inquiry dates by return.

Yours sincerely
Emery Planning

Rawdon Gascoigne

Rawdon Gascoigne BA (Hons), MRTPI
Director