ROMANSUMMER

Planning Manager
Wrexham County Borough Council
Guildhall
Wrexham
LL11 1AY

Our Ref: RG/RG/G267/L001
Date: 28th January 2025

Dear Sir / Madam

LAND WEST OF LEY FARM, GREEN LANE, HALTON, CHIRK, WREXHAM
APPLICATION PURSUANT TO SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT 1990 SEEKING THE ADDITION OF ONE CONDITION AND THE NUMBERING OF CONDITIONS PURSUANT TO PLANNING PERMISSION REF: 4/2006

We submit this application seeking the addition of a condition into the above planning permission to list the approved drawings, and also to introduce the numbering of conditions.

Section 96A of the Town and Country Planning Act 1990 came into force in Wales on 1 September 2014. The provision in this section of the Act provides the mechanism to approve non-material amendments to an existing planning permission.

Section 96A enables new conditions to be imposed providing the resultant effect is a non-material change.

Content of this Application

- Application form
- This covering letter
- Decision Notice for application ref: 4/2006
- Legal opinion (August 1995) by the now Lord Justice Holdgate
- Letter from Forsters LLP dated 12th December 2024
- The following drawings:

  - Ref: L06 – Site Location Plan (Hawthorn Design)
  - Drawing titled *"1977 layout 2/2006" as issued by the LPA by email on 19th December 2024*
  - LFC 11 – Type A – 2 bed semi detached house
  - LFC 12 – Type B1 – 3 bed semi detached house
  - LFC 13 – Type B2 - 2-bed semi-detached house
  - LFC 14 – Type C – 3 bed detached house
  - LFC 15 – Type D – 2 bed bungalow
  - Capita Symons drawing "Figure 2"

Background

On 14th June 1977, Glyndwr District Council granted planning permission for application ref: 4/2006, approving the following development:

'Layout and erection of 85 dwellings with garages and alteration of existing access between Chirk Green Wood and Ley Farm, Chirk.'

The enclosed legal opinion (August 1995) prepared by the now Lord Justice Holdgate advises that the planning permission dated 14 June 1977 with reference 4/2006 for residential development is extant, as material operations were carried out prior to the permission lapsing. Those works are noted as comprising access-related works and the creation of foundations in accordance with the approved layout drawing (those works are evident on historic Google Earth imagery).

We also enclose a more recent (December 2024) legal opinion prepared by Forsters LLP, which reviews the site history and advises that the position set out in the Holdgate option remains correct today, namely that the 1997 permission is extant, and as such the works carried out to date and the works proposed to be carried out pursuant to that permission are/will be lawful.

We also enclose an appeal decision issued on 23rd November 2015 in relation to an alternative proposal for the site (appeal ref: APP/H6955/A/15/3078137). In that decision the Inspector acknowledges at various points that the 1977 permission was extant, and makes it clear that the Council did not dispute that. We reproduce those comments below:

§5
*'The site also has an **extant planning permission for the erection of 85 dwellings granted in 1977**.'*

The same paragraph notes that:

*'However, the Council contends that the **extant permission** is unlikely to be implemented in full.'*

The only logical reading of that statement is that the Council did not dispute that the planning permission was extant. The fact that the Council appeared to question the likelihood of it being implemented is irrelevant and does not affect the status of that planning permission.

At §6 the Inspector cross referred to a previous appeal decision for an alternative housing scheme, noting the conclusions of the earlier Inspector (in 2008):

*'In reaching his decision the Inspector recognised the **extant permission**.'*

In the same paragraph, it is again apparent that the Council did not dispute that the 1977 permission was extant, as below:

'The Council also contends that ***the extant permission*** *provides for …'*

At §7 the Inspector twice refers to the ***'extant permission'.***

At §13 the Inspector again refers to the extant permission, suggesting that the scheme that was before him:

'is an improvement on the ***extant permission****.'*

At §14 the Inspector highlights the Council's comments on the extant permission:

'the Council considers that only a contribution towards the latter is required since ***the extant permission*** *makes no provision towards affordable housing and secondary school provision.'*

Later in that paragraph is further evidence that both the Inspector and the Council accepted that *'all previous permissions'* were extant:

'I am not aware that the Appellant has agreed to ***the Council 's request that all previous permissions should be revoked*** *in order to avoid any future risk of the simultaneous implementation of different developments.'*

We have noted the criticisms of the 1977 scheme and the suggestions by both the Council and the Inspector that they considered it unlikely it would be taken forward. However, that was nothing more than guesswork and speculation, and is no relevance to the question about whether or not a planning permission is extant. The appeal decision made it abundantly clear that the Inspector (and a second earlier Inspector) and the Council accepted that the 1977 permission was extant.

Whilst that appeal decision is dated November 2015, it was commenting on an approval 38 years previous, but nevertheless concluded that it was still extant. That said, there is no sound reason to suggest that the position is any different today, 10 years after the date of that appeal decision.

All of that considered, it is our client's case that planning permission 4/2006 is extant and can be implemented.

This Proposal

Our client intends to implement the 1977 planning permission, but – to ensure that matters are abundantly clear and regularised – is seeking the addition of a condition pursuant to Section 96A that lists the approved drawings.

We have recently (December 2024) approached the LPA to establish its records of the approved drawings. We received an email on 18th December 2024 from the Council's Business Support Assistant advising that the only drawing on its records is that reproduced below titled *'1977 layout 2/2006' :*

1977 layout 2/2006



Our client has provided us with additional drawings, including a replicated version of the above layout which makes clearer the 4 different approved house types – Type A; Type B1; Type B2; Type C; and Type D.

Our client has also provided five elevational drawings for each of the five house types. The LPA will note that all of those drawings are stamped with the planning application reference. All drawings are dated April 1977, which aligns with date the planning application was submitted and roughly two months before it was approved on 14th June 1977.

We suggest that it is inarguable that those elevations supported the planning application. They are timed correctly, and each of the house types marries up to the house types as labelled on the approved site layout (Type A, Type B1, etc).

We are accordingly seeking the insertion of an additional condition into the planning permission that lists all of the approved drawings.

Neither our client nor the LPA appears to have a site location plan with red line boundary in their archives, and as such we have requested Hawthorn Design Partnership (architects) to prepare such a drawing. That drawing (ref: L06 – Site Location Plan) accompanies this application and we are requesting that it is included in the list of approved drawings.

Finally, if it would assist the LPA, and in recognition of the scanning of the approved drawings that appears to have occurred over the course of the past 48 years, there may be benefit in creating a new 'clean' set of drawings to show the identical information is a rather clearer format. If the LPA would welcome such a 'clean' set out drawings, those can/will be provided upon request, and their references included in the new condition.

We therefore suggest the following wording of the new condition:

'The permission hereby granted shall relate to the area shown outlined in red on the approved location plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans:

- *L06 – Site Location Plan (Hawthorn Design Drawing titled "1977 layout 2/2006" [as issued to us by the LPA by email on 19th December 2024]*
- *LFC 11 – Type A – 2 bed semi detached house*
- *LFC 12 – Type B1 – 3 bed semi detached house*
- *LFC 13 – Type B2 - 2-bed semi-detached house*
- *LFC 14 – Type C – 3 bed detached house*
- *LFC 15 – Type D – 2 bed bungalow*

Reason - To define the permission and for the avoidance of doubt.'

Numbering of Conditions

In addition to the insertion of a new condition, we suggest that it would be logical to number each condition. Currently they are not numbered (see below).

The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.

Full drainage details for the site shall be submitted for the approval of the District Planning Authority.

Samples of the bricks and roof tiles to be used in the proposed development shall be submitted for the approval of the District Planning Authority, and the colour(s) of rendering shall also be as agreed by the District Planning Authority.

Details of a landscaping scheme for the site to include in particular the adventure playground amenity open space, specifying numbers and types of trees and shrubs, shall be submitted for the District Planning Authority's approval.

The estate road shall be extended at its southern end to the boundary of the application site, and shall be constructed to the same specification as that shown on the submitted layout plan LFC 10.

No fences, walls, hedges or other means of enclosure, including screen fencing shall be erected without the prior approval of the District Planning Authority.

Full details of the following shall be submitted for the approval of the District Planning Authority prior to site works commencing -

a) A layout of the proposed road surface water drainage system, together with full details of outfall proposals.

b) Longitudinal section s of the proposed road surface water sewers.

c) Longitudinal and cross sections of proposed roads.

Numbering each condition (including the new condition requested) would be entirely logical, particularly when future applications are made to discharge conditions in respect of drainage details; materials samples; landscaping; road surface water drainage; outfalls; sewers; and cross sections of roads.

We look forward to confirmation of receipt and validation of this application, and if you require any further information or wish to discuss matters, please do not hesitate to contact Richard Gee at the above offices.

Yours faithfully
for Roman Summer Associates Ltd



Richard Gee
Director