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By email to Roger.Thomas@pins.qsi.gov.uk

23199/A3/JB/ds

17th January 2017

Dear Mr Thomas

APP/G2713/C/15/3087177 & APP/G2713/C/14/3000758: RULE 6 PARTY

The Inspector's Pre-Inquiry Note dated 20 May 2016 and received by the Appellant on 11 January 2017, states:

"I will ask for the constitution of the Rule 6 party (Action 4 Refusal) to be clarified at the start of the inquiry, so it is clear who that group represents.

I understand that Action 4 Refusal intends to submit a proof of evidence, though I do not yet have a copy. In terms of the Rules, this proof is clearly late and I will not therefore consider it without hearing first from the other parties. The lack of a proof does not in itself prevent evidence being given however and it may be that a proof would prove helpful. If the parties, in particular the appellant, do not object to the submission of Action 4 Refusal's proof, please advise of this as soon as possible. Otherwise I will consider any objections or requests for adjournments when the inquiry opens. Clearly, I will need to allow time to read the proof myself, if it is accepted in evidence."

As matters presently stand, the Appellant has seen nothing in the way of a proof of evidence from the Rule 6 Party.

The Appellant was notified in March 2015 that 'Action for Refusal' sought to be a Rule 6 Party in the appeal proceedings. The Appellant addressed this matter directly in a letter dated 25th March 2015 in which the Appellant drew attention to the High Court Decision, questioning the identity of the group and queried whether 'Action 4 Refusal' should be afforded Rule 6 status. That status appears to have been conferred upon 'Action 4 Refusal' despite the Inspector not having been informed who the group represents. Their identity and constitution has still not been clarified.

'Action for Refusal' submitted a statement in March 2015 which commented solely on appeal ref: APP/G2713/C/14/3000758. They have not made comments on appeal ref: APP/G2713/C/15/3087177 or submitted any evidence to support their case in which the Appellant has seen.

This public inquiry should have taken place in May 2016. The fact that there was going to be a public inquiry in 2016, and that it was postponed until January 2017, has been well known in the local area

for some time now. It is therefore surprising that this entity has sought Rule 6 status for the purposes of the appeal only to fail to submit evidence by the usual deadline.

The Appellant has now seen a letter from Mr Stephen Hornsby of Goodman Derrick solicitors on behalf of Action 4 Refusal, dated 16 January 2017. That letter appends certain documents. Notwithstanding what is said in Mr Hornsby's letter it is far from clear why those documents are said to be relevant to the issues in dispute in this appeal. Judging by their date the documents have clearly been in the possession of Action 4 Refusal for some time, and no reason has been given as to why they are provided only now. The Appellant objects to their being introduced to the inquiry in this manner.

It remains unclear whether the Rule 6 Party intends to submit a Proof of Evidence. Mr Hornsby's letter is silent on that point. Given that the inquiry begins in less than 5 working days the Appellant anticipates that it would be likely to object to any Proof of Evidence being adduced by the Rule 6 Party for the first time, at this very late stage.

Whilst the lack of a Proof of Evidence provided to the parties in advance of the inquiry does not, as the Inspector notes, automatically prevent a Rule 6 party from giving evidence at the inquiry, the Appellant submits that there would have to be exceptional reasons why a Rule 6 party should fail to provide evidence in advance and then be allowed to present oral and/or written evidence at a public inquiry. The Appellant would strongly object to such a course of action. Mr Hornsby's letter fails to disclose what is the intention of Action 4 Refusal in this regard. Were any additional costs incurred by the Appellant as a consequence of Action 4 Refusal attempting to adduce further evidence orally at the inquiry, the Appellant would be likely to seek a costs order against the Rule 6 party.

The Appellant will respond to the other matters raised in the Pre-Inquiry Note separately.

Yours sincerely



STUART NATKUS

Director

Cc: Mr T Wood - Hambleton District Council
Mr S Hornsby – Action for Refusal