



International Property Advisers

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Dear Sirs

**LAND KNOWN AS “FORMER CIVIC SERVICE SPORTS GROUND”, MALMESBURY CLOSE, SOUTHAMPTON**

We write on behalf of our clients, Stonechat Developments Limited, to submit representations to an application for a Certificate of Appropriate Alternative Development under Section 17 (s.17) of the Land Compensation Act 1961 and Land Compensation Development Order 1974 for land known as ‘Former Civil Service Sports Ground’, Malmesbury Place, Shirley, Southampton.

A Compulsory Purchase Order for the above lands was made on the 30<sup>th</sup> March 2010 and this was subsequently confirmed on 16<sup>th</sup> August 2010. My clients sold their freehold interest in the property to Bovis Homes Ltd in 2005 but still have a charge over the site.

A s.17 application has been submitted by Capita Symonds on behalf of the Acquiring Authority, Southampton Education Authority (Children’s Services & Learning). The application is not clear as to what date they are assessing what the appropriate alternative development of the land would be if it were not proposed to be acquired by the Council under Compulsory Purchase Powers. The correct date in accordance with s.22 of the Land Compensation Act 1961 is the date of the notice of the making of the CPO, which we have taken to be within the 4 weeks prior to the making of the CPO.

Following a review of the s.17 application, my client contends the proposed planning policy matrix at the relevant date, as well as the case submitted for appropriate forms of development by the Acquiring Authority. I set out my client’s submissions on each of these points below.

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### ***Planning Policy Matrix***

The planning assumptions that form the basis of the s.17 application are premised on an assessment of the national and local planning policy matrix at the relevant date, which is set out in Sections 3 and 4 of the application.

Whilst there is common ground between my client and the Acquiring Authority in regard to the planning policy matrix on the relevant date, my client contends the application of paragraph 4.6 regarding Planning Policy Statement 3 (PPS3). The application references a quotation from PPS3 Annex B regarding the definition of previously developed land, which could be a key material consideration in appraising the appropriateness of development on the land. However, the version of PPS 3 which includes the Government's latest definition was only published in June 2010, nearly three months post the making of the Compulsory Purchase Order. It is therefore my client's view that this paragraph and the subsequent paragraph 4.7 should be disregarded in its entirety.

### ***Planning Assumptions***

Based on its planning policy matrix, the Acquiring Authority considers the appropriate alternative uses for the land, which it considers to be:

- **Class D1(c)** – Non-residential Institutional use for provision of education, with restriction on lands to ensure that it remains as Educational / School Playing fields; and
- **Class D2(e)** – Assembly & Leisure, outdoor sports facility with ancillary pavilion and changing room, with restriction on change of use within the use class.

It is our client's view that appropriate alternative development on the land on the relevant date would not be confined to only Class D1(c) and D2(e) uses as considered by the Acquiring Authority, but could include Class C3 uses.

The key Development Plan policies considered in relation to the land are Policy CLT3 Protection of Open Spaces of the City of Southampton Local Plan Review (March 2006) and Policy CS21 (Protecting and Enhancing Open Space) in the adopted Core Strategy (January 2010). These two policies seek to both protect and enhance the provision of public and private open space within the Borough, through not permitting development that would lead to the loss of any open space.

It is my client's submission that it would be feasible to develop the existing developed area of the site, comprising some 3,200 sqm gross of land currently used for car parking, pavilion/club house and skittle alley, for Class C3 residential development.

The development of this area of the site would not prohibit the use, function or quality of the open space provision, whether in public or private use, and would therefore not conflict with these development plan policies. Indeed, application 10/00105/R3CFL, granted consent on 16 March 2010, demonstrates that continued use of the sports pitch and open space can be secured in a policy compliant manner without the need or use of this existing developed area.

It is my client's submission that as a minimum, the residual site area of c0.4 hectares excluding the open space is sufficient to deliver a small scale housing scheme in a policy compliant manner that respects and protects the amenity of the existing adjacent residential dwellings and meets all other amenity objectives in the Development Plan. Based on a standard indicative density that would be consistent with the surrounding residential neighbourhood, the site could accommodate up to 12 units when applying a density of 30 dwellings per hectare which was the minimum density which could be applied at that time.

### **Conclusions**

In conclusion, my client objects to the limited scope of appropriate alternative development submitted by the Acquiring Authority as being reasonable on the land at the relevant date and submits that Class C3 residential use could be delivered on the part of the site that it already developed, without prejudicing policy objectives for the retention and protection of existing open spaces.

We trust you will take these comments on board.

Yours faithfully

*GVA Grimley Ltd*

**GVA GRIMLEY LTD**

CC Ray Haskell, Stonechat Developments Ltd  
Michael Bennett, Charles Russell