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**OBJECTOR REFERENCE: TR010030 / M25J10-AP034**

**PARK BARN FARM (“PBF”) – ALDERSON**

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**SUBMISSIONS FOR DEADLINE 7**

**IN RESPONSE TO EXQ3**

**(ISSUED 03/04/2020)**

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*Abbreviations appearing below are the same as the ones used in previous written representations submitted on behalf of the objector.*

<b>Question</b>	<b>Response</b>
<b>1</b>	<b>General</b>
3.1.3	<u>Applicant’s proposed changes</u> The objector supports change 2, but does not wish to make any comments in relation to the proposed scheme changes nos. 3-6.
3.1.4	<u>Applicant’s proposed changes</u> The objector is generally supportive of the proposal to extend the green element of the Cockrow Bridge (change no. 1). In general terms this will improve the connectivity, usefulness and function of the existing SCL to be retained. This benefit to the existing SCL will only be realised if the road scheme proceeds. Accordingly, therefore, as we have indicated within our previous representations, this is a relevant factor which must influence the calculation of RL.
<b>8</b>	<b>Landscape and Visual Impact</b>
3.8.4	<u>Cockrow Bridge</u> We agree with the applicant’s statement that: <i>“The widened bridge would provide greater visual connectivity between the land on either side of the A3 and as such provide a positive contribution to the landscape character of the area.”</i>
<b>9</b>	<b>Land Use, recreation and non-motorised users</b>
3.9.2	<u>Derivation of Target ratios</u> We note that this question is for others (SCC, EBC and GBC) to answer. Any comments in response will be provided at Deadline 8.

3.9.3	<p><u>Table 1 – Alternative RL options</u></p> <p>We note that SCC, EBC and GBC have been asked to comment on their most preferred / least preferred options, stating their reasons for those choices. Any comments in response will be provided at Deadline 8.</p> <p>However, please note that our submissions for Deadline 6 (Rep.6-025) also put forward two further options, 4A and 4B, which are not currently included as part of Table 1. The objector has ranked all 6 alternative PBF options in the following order of preference:-</p> <p style="padding-left: 40px;"> <b>(1)</b> Option 3  <b>(2)</b> Option 2  <b>(3)</b> Option 4A *  <b>(4)</b> Option 4B *  <b>(5)</b> Option 4  <b>(6)</b> Option 1  * = New option: not currently assessed by HE. </p> <p>A plan is included with this representation which shows how Options 4A and 4B might look, which modifies Fig. 2 of Application Document Ref. TR010030/9.74 [REP.5a-012] (<u>Nb.</u> Both these options involve reducing the amount of land acquired from PBF2 &amp; PBF3).</p> <p>The plan shows the <b>minimum</b> reduction to the proposed acquisition within areas PBF2 and PBF3 which still affords a significant advantage to the owners and occupiers of Park Barn Farm, namely:-</p> <ul style="list-style-type: none"> <li>• The existing contours of the land better protect their privacy;</li> <li>• Both ornamental ponds are retained;</li> <li>• The current location of the summerhouse is also preserved in situ, with its views over the land which slopes away to the north.</li> </ul> <p>The retained land within PBF2 and PBF3 would become everything to the north of the black line, which extends from the northern tip of Buxton Wood in an ENE direction, until it meets Foxwarren Park, just a small distance south of the existing boundary for option 4.</p> <p>Option 4A would mean including PBF 1 (“the Cowfield”) as part of the client retained land, whereas option 4B keeps this as part of the existing proposed scheme.</p>
16	<b>Compulsory Acquisition (CA)</b>
3.16.1	<p><u>Summary of case</u></p> <p>The representations we have lodged at Deadline 5 [REP5a-013] and Deadline 6 [REP6-025] provide an adequate overview of the oral case that we had been intending to present on behalf of Mr Alderson at the (now postponed) CA</p>

	<p>hearing. However, it is necessary to refer back to the content of our submissions at Deadline 1 [REP1.034-036] and Deadline 3 [REP3.068-071]-in order to understand these issues fully. Those comments provide a detailed supporting analysis and critique of the information contained within the DCO application, and in particular, Appendix C of the Common Land and Open Space Report [AS-005].</p> <p>Put broadly, the objector contends that the proposed compulsory acquisition of land at PBF is unnecessary, and also causes significant harm to protected human rights interests. The proposals therefore fail to satisfy the relevant statutory test (PA 2008), and conflict with the key principles set down in the associated CA Guidance. The overall package of RL, which includes PBF, is therefore both ill-conceived and legally unsafe.</p> <p>The correct starting point, and statutory presumption, is a 1:1 ratio for land to be acquired (which does not inevitably include a separate component in compensation for permanent <i>rights</i> to be acquired).</p> <p>As we have previously illustrated HE has never shifted materially from its original starting position that the earlier road schemes (which adopted much higher ratios) provide a significant relevant benchmark, and any compensatory adjustments it might claim to have made are wholly insufficient to rectify that problem. On any fair analysis, one can see that HE’s approach, which uses this benchmark, is irrational and/or not objectively based on the available evidence.</p> <p>The objector contends that there will be a significant balance of advantage (to RoW users and other persons) given the likely scheme impacts and the overall quality, usability, contiguous location and degree of inter-accessibility between the chosen RL plots and the retained SCL. Therefore, the applicant has not demonstrated that there exists a compelling case in the public interest for the land at PBF to be acquired compulsorily – most especially where it materially impacts on important private interests.</p> <p>This objection relates to the following plots of land:-</p> <p>11/7, 11/12, 11/17, 11/17a, 11/8, 11/8a, 28/2, 12/3  <u>[To be confirmed]</u></p>
3.16.7	<p><u>Certificate of lawfulness</u></p> <p>For clarity, the objector bought all the land and buildings known as Park Barn Farm pursuant to a conveyance dated 18<sup>th</sup> October 2001, and he has occupied all this land as his home ever since that date. His use of the fields directly affected by the scheme is set out in the statutory declaration evidence which was previously submitted [Appendix 2 of REP5a-013].</p> <p>It is important to point out that in planning law, immunity from planning enforcement, and lawfulness, accrues directly under the 1990 Act by the passage</p>

	<p>of time (see s.171B and s.191(2) of the 1990 Act), and so this is not actually dependent on the grant of a lawful development certificate.</p> <p>For reference purposes, however, we attach (as Appendix 1) a copy of the lawful development certificate for “The Annex”, ref. 19/P/00523, together with drawing 1048PB01 which is referred to in the Certificate. Intentionally, this Certificate does not include any part of the land comprised within PB1-PBF3 since these fields are now considered to form part of the domestic curtilage of the main house where the objector resides.</p> <p>In practice there has been shared use of the surrounding land as domestic curtilage, because both the Annex and the old farmhouse are independent dwellings which are occupied by close family members.</p>
3.16.8	<p><u>Park Barn Farm objections</u></p> <p>We note that this question is primarily for the applicant and SCC to answer, and therefore any further comments in response will be provided at Deadline 8.</p> <p>In our view, however, it is significant to record that the applicant does now acknowledge that the target ratio ‘precedents’ are not a part of the statutory test (PA 2008).</p> <p>Further, we consider that a fundamental flaw in the applicant’s case is the absence of any proper analysis in respect of the question posed under 3.16.8(b) and (c) to justify a similar level of RL provision now. Indeed, where the applicant has already commented in respect of these issues it would tend to support a much lower level of RL than it has actually sought to provide.</p>
3.16.9	<p><u>Function of the SCL</u></p> <p>We note that this question is primarily for the applicant and SCC to answer, and therefore any further comments in response will be provided at Deadline 8.</p> <p>It is important to note the following points:-</p> <ol style="list-style-type: none"> <li>1. Firstly, the applicant has never sought to argue that the SCL that would be lost to the proposed development carries any special significance in terms of its function, usefulness or usability (as compared to the retained SCL);</li> <li>2. Secondly, one of the applicant’s central claims is that it will improve the function and usability of the retained SCL through careful design measures that will preserve and <u>enhance</u> rights of way linkages between the four separate quadrants.</li> </ol>

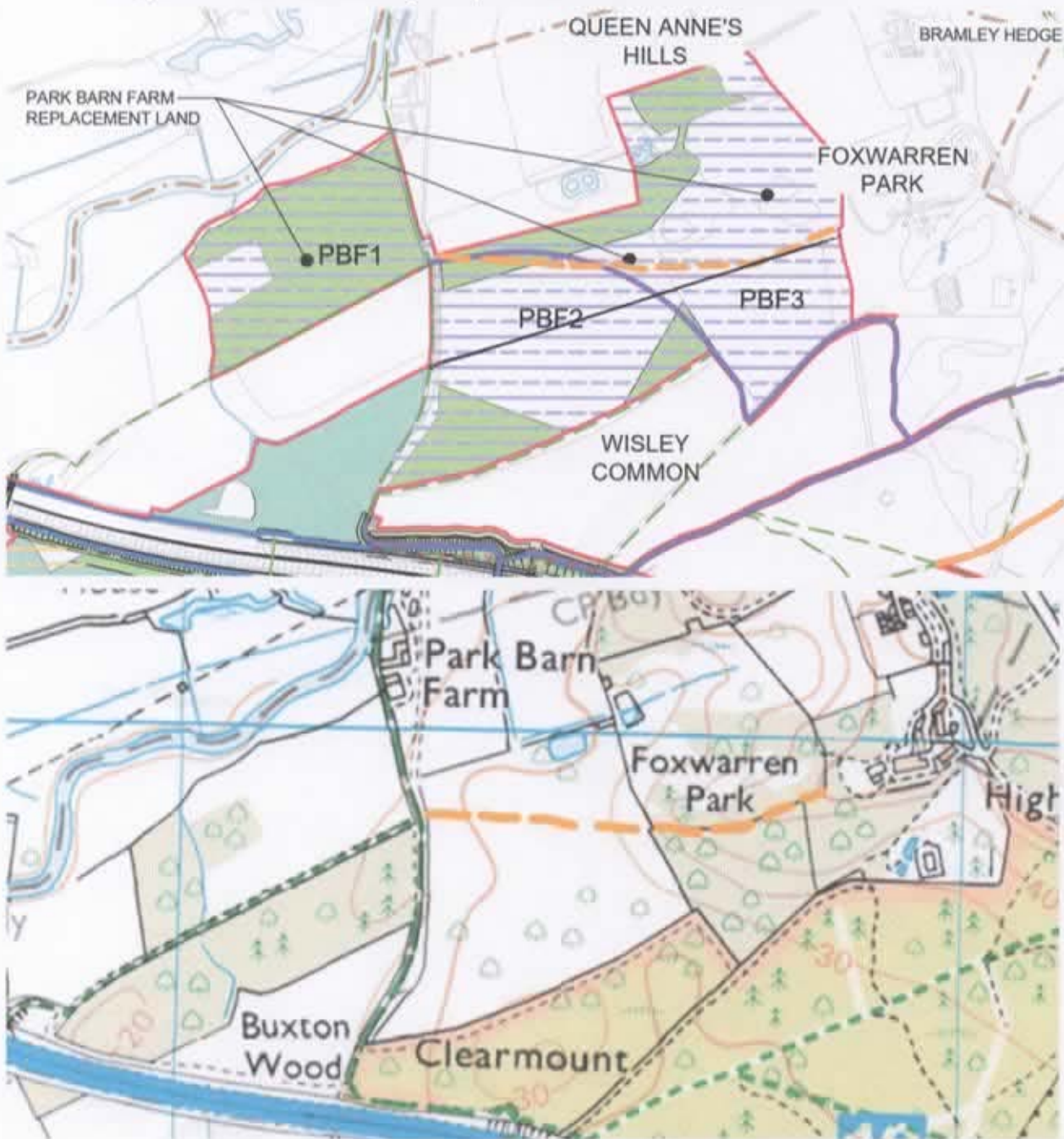
**KEYSTONE LAW**

**On behalf of Mr Ronald Alderson**

**20/04/2020**

The first image is based on an extract from the composite scheme layout plan [REP1-007]. The amendments to the DCO boundary that would be necessitated if the land described in Option 4 was removed from the Scheme is indicated by a dashed orange line. This follows an old boundary (visible on the OS map base) across area PBF3 and then follows a straight line across area PBF2 to the corner of the current DCO boundary adjacent to the access track. This proposed boundary runs just to the south of a local ridge line that extends westwards down from Foxwarren Park, as indicated by the contours on the second image, which is based on the OS 1:25,000 map. This means that the land suggested to be omitted in this option is, visually, more closely related to the land to the north rather than to the south.

**Figure 2: Sketch drawing of Option 4 as referred to in Table 1**







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**Town and Country Planning Act 1990 (as amended): Section 191:  
Town and Country Planning (Development Management Procedure)  
(England) Order 2015: Article 39**

**Approval of application for Certificate of Lawfulness of existing use or development:  
19/P/00523**

**Date of Decision: 07/05/2019**

**Proposal:** Certificate of Lawfulness for existing use to establish whether the use of an outbuilding as a single dwelling occurred more than 4 years prior to this application

**Location:** [REDACTED]

**For:** Mr R Alderson

Guildford Borough Council hereby certify that on 22/03/2019 the use or operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):-

**First schedule:**

Certificate of Lawfulness for existing use to establish whether the use of an outbuilding as a single dwelling occurred more than 4 years prior to this application

**Second Schedule:**

[REDACTED]

**Informatives:**

1. This decision relates expressly to drawing: 1048PB01 received on 22/03/2019.

**For Your Information**

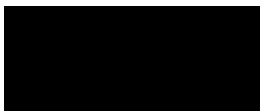
This Certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).



It certifies that the use or operations specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and, thus was not liable to enforcement action under section 172 of the 1990 Act (as amended) on that date.

This certificate applies only to the extent of the use or operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use, operations or other matter which is materially different from those described or which relates to other land may render the owner or occupier liable to enforcement action.

Please read the Important Notes attached.



Tracey Coleman  
Director of Planning and Regeneration

## Important Notes

The applicant is recommended to retain this decision notice in a safe place or with the title deed of the property.

### **Building Regulations and other legislation**

This permission relates only to planning legislation. It is your responsibility to seek any authorisations required under other legislation.

In particular, Building Regulations approval may be required for this work. For free informal advice please contact our Building Control Service at [www.guildford.gov.uk/buildingcontrol](http://www.guildford.gov.uk/buildingcontrol) or telephone 01483 444545.

Attention is drawn to Section 20 of the Surrey Act 1985 which requires that when a building is erected or extended, proper provision shall be made for the fire brigade to have means of access to the building and any neighbouring building.

### **Appeals to the Secretary of State**

#### **General**

You, or an agent acting on your behalf, can appeal if you were the person who made the application. Appeals are dealt with by the Planning Inspectorate, an executive agency of the Department for Communities and Local Government. Its primary function is to determine appeals on behalf of the Secretary of State.

Appeals must be made to the Planning Inspectorate within certain time limits and on forms provided by the Planning Inspectorate. You can find more information on how to appeal at <https://www.gov.uk/appeal-planning-inspectorate>. If you do not have internet access you can contact the Planning Inspectorate at

The Planning Inspectorate  
Customer Support Team  
Room 3/13  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN  
Telephone: 0303 444 5000  
Fax: 0117 372 8782  
Email: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

#### **Certificate of Lawful Use or Development**

Under section 195 of the Town and Country Planning Act 1990 (as amended) if you are aggrieved you may appeal to the Secretary of State against the decision of the local planning authority to refuse your application or to grant it subject to conditions, or if a decision is not made within a certain period. There is no time limit for making an appeal.

Appeals must be made to the Planning Inspectorate on forms provided by the Inspectorate.

The Island

Park Barn Farm

The Lodge

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This map is for identification purposes only and should  
not be relied upon for accuracy.

Print Date: 07/05/2019



Not to Scale

