

Site 9a Orchards Correspondence
CORRESPONDENCE

13th April

Prior to the publishing of the map in the May Reporter, checking that we can show 9a as being available.

Evening Quenton, I've got to send this to the Reporter tonight (copy of NPG page), but I am sure I could change the map if you think I should take it off. I've added the caveat (suggested by Jo) that we are still doing checks on ownership.

Sue

13th April

Hi Sue.

I think leave it in. I spoke to my cousin last week so it won't come as a surprise to them.

Date: **14th April 2017**

Sue Gould

Mr & Mrs M Miller



DT11 0BU

Dear Mr & Mrs Miller

Ref: The Land Known As "Orchard", Behind Hurdles, Orchard Villa and Gould's Farmhouse

The Neighbourhood Plan Group has now undertaken site assessments and initial desk-top checks of the various sites put forward in the 'call for sites'. Your site (referenced above) has been selected for further consultation as a possible option, however, the below issues need addressing if the site is to be considered.

1. In your original application you stated that you are part owner of this plot, and to continue we need the consent of all owners. Please could you confirm that the remaining landowner/s are agreeable to this site being available for development in the next 15 years?
2. The initial feedback from the Highways Authority indicates that they are likely to raise objection to the proposed access through Gould's Farmhouse driveway, which could potentially rule out development of this site. If possible, could you suggest alternative access options within your control that we can ask the Highways Authority to assess? We would appreciate clarification of both points as soon as possible please, by no later than the end of April 2017. Thank you for your anticipation co-operation on these matters, I look forward to hearing from you. However, if you have any queries, please do not hesitate to contact the team.

Kind regards Sue Gould

Secretary MSA Neighbourhood Plan Working Group.

15th May 17

Dear Nicola

Thank you for letting us know about your stance on site 9a. We are letting the other owner know, and unless we hear anything further in response the site will be removed from the consultation.

With regard to the sites that you have submitted, we have evaluated each site against 7 criteria (based on the questionnaire and research): a working, active village, which is walkable and retains green spaces, without encroaching into the countryside, and creating pleasant places to live. We want to minimise flood risk and try to avoid increasing congestion and on street parking.

Your sites, as a result, have not been selected as a preferred option; however, they will be represented at the Open Day in the Village Hall on 10th June, with an explanation of the decision process, and this result may change if the public disagree with our conclusions.

Many thanks

Sue Gould

MSA NPG Secretary

16th May 17

Good morning Sue

Thank you for coming back to me

By all means go back to Michael, but he is well aware of my feelings regarding development of that area, my mother and I have been telling him for the past 20 years! In fact the horse chestnut trees were planted in that field some 24 or 25 years ago to prevent it being used for large scale development. It was removed from North Dorset SHLAA in 2011 but they didn't update their maps at that time.

In relation to my other sites we would very much like to know your reasoning in particular regarding the plot behind Grays and next to the school. We understand that your group used a questionnaire to rate all the sites and in the interests of transparency could we see the list of questions that were posed.

Kind regards

Nicola

NPG@milbornestandrew.org.uk

1st May 17

Dear Sue,

Thank you for your letter, on behalf of the MSA Neighbourhood Plan Working Group, dated 18th April 2017 emailed to Quenton Miller.

We are sure that you are aware, but for completeness Homefield is part owned by the Harry Miller Will Trust and decisions can only be made by the four trustees, Michael and Quenton Miller and David and Richard Pye. The remainder of the site is owned by Michael Miller.

We are a happy for you to correspond with Michael and Quenton at Longclose Farm but can you please also copy any correspondence to David and Richard at Yew Bank, Romsey Road, King's Somborne, Stockbridge, Hants. SO20 6PR and by email to david.pye@isgrp.co.uk.

The Trustees have agreed that we would certainly consider providing a site, with parking, for a Doctors Practice in the north west corner of Homefield (immediately behind the village hall and childrens play area). Given that the family have been in the village for 3 generations, the Trustees would welcome the chance to provide an important facility.

The majority of the dwellings in the village are within a 400 metre radius of this position, which we believe given the existing footpath network, promotes a sustainable walkable location for such an important community asset. The trustees are prepared to consider alternative community facilities on this area if these are preferred but would also point out that the gift of any land for community benefit would be subject to usual viability tests.

There are obvious topographical challenges to providing a frontage of houses on either side of Blandford Hill on the A354, however if these can be overcome in engineering terms, we would be happy for the Neighbourhood Plan Working Group to include Homefield in any consultation on this basis. In order to maintain the continuity of housing along the A354 we consider that safe access for this and any community facility should be via Lane End but obviously we would be happy to work with the Neighbourhood Plan Working Group to agree a suitable proposal.

We hope that this clarifies the position but we are happy to discuss matters further initially through Quenton, who will continue to liaise with the other trustees.

Yours sincerely

3rd May 17

Good Evening Sue,

I have just read the Milborne Reporter and would like to advise you that area 9a will definitely not be available for development. I realise that you have probably been advised differently but I am the majority owner and will not allow it to be developed. I would therefore suggest you remove it from the consultation document.

I look forward to meeting you again at the open morning

Kind regards

Nicola

Site 9a and 9b

Dear Mr Miller

Site known as the Orchard behind Orchard Villa

Further to the below contact from Mrs Pye, the NP Group are proposing to withdraw the site from the consultation, unless you can advise and explain to us why there is reasonable prospect of the site becoming available for development within the plan period. If the site may be available, we also need to have a map indicating the proposed point of access on land in your control (and potentially revised site boundaries), as the highways advice is that access via the drive to Goulds Farm House would not be acceptable.

Site known as Homefield

We are trying to avoid having more than one contact for each site where the parties are working together, to keep communications simple and reduce the risk of errors. To avoid any errors, please can you nominate one point of contact.

Many thanks

Sue Gould

MSA NPG Secretary

Site 9a

Dear Nicola

Thank you for letting us know about your stance on site 9a. We are letting the other owner know, and unless we hear anything further in response the site will be removed from the consultation.

With regard to the sites that you have submitted, we have evaluated each site against 7 criteria (based on the questionnaire and research): a working, active village, which is walkable and retains green spaces, without encroaching into the countryside, and creating pleasant places to live. We want to minimising flood risk and trying to avoid increasing congestion and on street parking.

Your sites, as a result, have not been selected as a preferred option; however, they will be represented at the Open Day in the Village Hall on 10th June, with an explanation of the decision process, and this result may change if the public disagree with our conclusions.

Many thanks

Sue Gould

MSA NPG Secretary

17th May 17

Response to Nicola Pye

Dear Nicola

Thank you for your prompt response. Further to your request for further information, the criteria and process for the sites put forward will be explained through our displays at the open day and will also be made available online, we would welcome any further comments you have as part of that consultation.

Kind Regards

Sue Gould

Sec MSA NPG

Milborne St Andrew Neighbourhood Plan Working Group

10TH June 2017

Dear Ms Gould,

I write in response to your email of 15th May 2017, for ease of reference I have adopted your headings and reply as follows:

Site known as the Orchard behind Orchard Villa

I appreciate that you have been contacted by Mrs Pye, however I do not agree that her comments warrant removal of the site from the consultation.

It is my understanding that the current legal availability of the site is not the purpose of the consultation nor in fact a criteria of the site assessment process. The purpose of the consultation being to assess the suitability of the site for

development. The NPG do not currently have any absolutely certain guarantees that any of the other sites forming part of this consultation will be made available for development, therefore to exclude the Orchard on this basis is not acceptable.

For information, as a co-owner of the site there are legal channels I can pursue in order to make the site available but this would only be something I would undertake if the site was considered suitable.

Turning to the access for the site, the property know as Orchard Villa which is entirely within my control, and has a large road frontage onto the Causeway will provide linkage from the site to the public highway. Similarly I am a co owner of Homefield, which, if considered appropriate would provide access from the Orchard on to Lane End.

Site known as Homefield

I can confirm that the Trustees of Homefield are happy for Quenton to be the first point of contact.

Yours sincerely,
Michael Miller

15TH JUNE 2017

Dear Sue,

Please find attached a letter regarding the above together with a copy letter from NDDC.

Kind regards
Nicola

From:
Sent:
To:
Subject:

Claire Walker
02 June 2015 12:41

Dear Mrs Pye,

SHLAA Ref 2/39/0493

Thank you for your letters dated 29 May 2015.

I can confirm that we have updated our database and internal mapping to reflect the change you requested to the site in 2011, to remove the area east and north east of the farmhouse.

However the online mapping available on the Dorset for you website has not yet been updated to reflect the change. We have been incredibly busy this year due to work for our Local Plan examination, but would hope to be able to update the online mapping shortly.

I have also updated our database for the major part of the site with the details for The Trustees of Mr H Miller as covered in your letter.

Kind Regards

Claire

Claire Walker
Monitoring & Research Officer
North Dorset District Council

We value your feedback. To help us improve services, please complete a short survey by

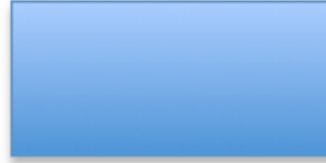
<http://www.dorsetforyou.com>

Email:

Think before you print.

The views expressed above are personal unless stated otherwise. NDDC is not liable for any consequences of accessing this electronic transmission.

Yew Bank
Roms
King's S
Stockbridg
nicola@y
Tel. 0179



15 June 2017

Ms S Gould
Milborne Neighbourhood Planning Group

Dear Sue,

Thank you for forwarding a copy of my brother's letter regarding site no 9a known as the Orchard.

I am sorry that the NPG has become involved because my brother wishes to try to develop Orchard against my wishes as the majority owner. I note that Michael would even consider taking legal action to pursue his desire to build houses all around Gould's Farmhouse. To do so he would have to bring an action under section 14 of the Trusts of Land and Appointment of Trustees Act 1996. If that happens not only will I defend any such action but I am afraid that the NPG is likely to be involved.

Orchard was removed as a SHLAA in 2011 and again in 2015 when the majority ownership transferred from the Executors of which Michael was one. (See copy acknowledgement). I do not understand how the NPG came to consider the site without any reference to me when it was not brought forward in the call for sites by NDDC by me. If it was brought forward by Michael, he did not notify me as joint owner. My nephew, Quenton, was a member of your group at the time and knew that I was the majority owner and that I was opposed to development of this site.

The first I became aware of the site being considered for development was the map published in the Milborne Reporter. I was not contacted by the NPG regarding the site visit unlike the other sites I own and I can therefore only assume that my ownership was concealed from the group to ensure that the NPG was kept in ignorance of my views and that I would be presented with a fait accompli.

I note that Quenton has belatedly recognised his conflicts of interest and resigned from the NPG. It is noticeable that all of the sites in which he, or his father, have a financial interest have been listed as preferred sites and indeed the area behind Fox View has been approved by the parish council. On the other hand those sites which I own and which are tenanted by Michael Miller, who employs Quenton, have been rejected.

I am sure that the last thing that the volunteers on the NPG would wish is to be involved in any court proceedings. Any legal action would also call into question the current consultation as the NPG is obliged to take into account any questions of availability under the NPPF guidelines. Including the site, as a preferred site, in the consultation risks misleading the public and disadvantages other landowners whose sites have been rejected. Any legal action would inevitably be protracted and would almost certainly delay the ability of the NPG to publish any plan that included the Orchard site.

I can confirm Michael does indeed own Orchard Villa which does have a wide access area on to the narrow road known as the Causeway. He is also one of 4 trustees of Homefield but the trustees have to act in full agreement for the benefit of all the beneficiaries so nothing is straightforward.

I would therefore urge the NPG to consider these issues as a matter of urgency and consider whether they should withdraw the Orchard from the list of preferred sites.

With kind regards
Nicola Pye

23 June 2017

(Above letter attached)

Dear Michael and Vicki

Please find attached, send earlier this month, we have responded today, and have taken the decision to copy any correspondence regarding this site to both yourself and Mrs Pye.

Kind Regards

Sue Gould

MSA NP Working Group



23rd June 2017

Yew Bank

S020 6PR

Mrs S I Gould

Dear Nicola

Thank you for your letter dated 15 June 2017. The group do want to ensure that any housing sites that are included in the draft plan can contribute to the housing supply (otherwise there is a risk that the plan would not meet its fair share of housing and could be undermined), and therefore their availability, although not a requirement for neighbourhood plans in either the NPPF or NPPG, is a matter that we do seek clarification on.

Had all landowners of site 9a confirmed that the site would not be available we would not have consulted on it. As you know this was not the case, and the group (excluding those persons who had declared as interest) took the decision that if there was any residual doubt, the site should be published as a potential option at this stage so that the community's views about the site could be gauged, but that the uncertainty over its availability should also be made known. The fact that its availability was disputed was publicised on summary table in the introductory boards, and we displayed copies of both landowners' letters regarding the site's availability on the tables.

I hope the following can give you some further reassurance.

- Firstly, the neighbourhood plan has not yet drafted the plan, and no decisions have been taken on which sites to include
- Secondly, the fact that a site was included in the consultation on site options does not mean it will be included in the plan – as was made clear in the consultation that altogether the preferred sites would provide too many homes (so would not all be needed), and we also asked if the less preferred sites may be better – so no sites have been ruled in or out as yet.
- Finally, the basis on which sites were categorised as preferred or not was based on the published criteria, and anyone with an interest on the NPG was not involved in the assessment of those sites or the decision where the line was drawn between the two categories. For the reasons set out above the inclusion or exclusion of sites is not set in stone.

We intend to review the results of the current consultation and publish the main findings after the summer recess. We would expect to provide a further update to all landowners at that time. The decision as to what sites should be included in the draft plan will ultimately rest with the Parish Council, who will approve the plan for consultation, and we hope to reach this stage around December / January.

Yours sincerely
Sue Gould
Secretary
MSA NP Working Group

NB The group have made the decision to copy in all further correspondence regarding this site to yourself and Mr Michael Miller.

Milborne Neighbourhood Planning Group

Dear Sue,

Thank you for your letter in reply to my letter dated 15 June 2017.

I note that you have been advised that the NPPF does not require you to consider availability under your assessment of the suitability of sites. I believe that you have been misinformed and draw your attention to Para 159 of the NPPF and the related guidance issued by the Department of Local Government and Communities March 2014 (see <https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment>).

This states:

“What factors should be considered when assessing availability?”

A site is considered available for development, when, on the best information available (confirmed by the call for sites and information from land owners and legal searches where appropriate), there is confidence that there are no legal or ownership problems, such as unresolved multiple ownerships, ransom strips tenancies or operational requirements of landowners. This will often mean that the land is controlled by a developer or landowner who has expressed an intention to develop, or the landowner has expressed an intention to sell. Because persons do not need to have an interest in the land to make planning applications, the existence of a planning permission does not necessarily mean that the site is available. **Where potential problems have been identified, then an assessment will need to be made as to how and when they can realistically be overcome**

The NPG is now aware that the only way that the field can be developed is if my brother brings a court action to force me to sell it. I do not see how the NPG can claim that “there is confidence that there are no legal or ownership problems” and the site should not be considered as a favoured site for this reason.

I believe that the note on the public consultation questionnaire does not adequately reflect the difficulty of making the land available and as such misleads the public. I also point out that Michael’s letter stating that he recognised that he would have to take legal action to try to make the land available was not printed out and available for viewing at the public consultation. You will recall that you had to look it up on your computer and send a copy to me after the meeting.

It would appear that the NPG has not followed the Planning Guidelines in this respect and this raises the question of what other guidelines have been overlooked. For instance I can see no evidence that in assessing the sites that account has been taken of Section 132 of the NPPF which “creates a strong presumption against the grant of planning permission which will harm heritage assets” (see Mr Justice Sales in R(Lady Hart of Chiltern) v Babergh District Council, 2014).

Gould’s Farmhouse, where the majority of the building dates from the early eighteenth century with earlier parts, is a non-listed heritage asset. It is referred to in An Inventory of the Historical Monuments of Dorset (HMSO 1970). It is within the Conservation area and any development of the Orchard will adversely affect the setting of this building within farmland especially when viewed from the bridleway that runs through the field. There are also views of the farmhouse and farmland behind from Church Hill and the Churchyard and views from the footpaths in Homefield would also be affected.

The planning guidelines make clear that the setting of heritage assets must be taken into account. The importance of this field in preserving the setting of the farmhouse was the reason why my father left the land to me as owner of the farmhouse and separated it from the remainder of the farm and why I am opposed to any development of the land behind it which provides context to the building as a farmhouse. I am therefore disappointed that the NPG appears not to have considered this aspect or given sufficient weight to the planning guidelines in relation to preserving the heritage of the village and its Conservation area.

I note that the sites you have selected even without the Orchard provide more than sufficient land to meet the housing needs identified. This seems to me to be an argument for not including Orchard when there are clearly difficulties over its availability in comparison with other sites where the owners are willing to make the land available, rather than a reason for including it. I cannot understand why you appear so determined to give preference to Michael and Quentons' views over my own especially when I am the majority owner of the land.

Yours sincerely Nicola Pye

29th June 17

To: Nicola Pye

Cc: Michael and Vicki Miller

Fwd: Neighbourhood Planning Group

Dear Nicola

Thank you for your letter, which has been forwarded to the team.

Kind Regards

Sue Gould

on behalf of the MSA NP Working Group

4th July 2017

Dear Sue

Firstly please accept my apologies that you have become involved with my sister's quarrel with me. The purpose of the NPG is far from involving themselves in such matters and I do appreciate that Nicola's letter implies that you have not acted correctly in your role which I wholly disagree with.

I do not agree with Nicola's letter as I feel that she is misunderstanding the process and your role in the same.

Nicola's point concerning the NPPF guideline not having been followed seems incorrect to me. It is my understanding that those guidelines are not applicable until the site is actually being assessed, rather than at the stage of a site being put forward, and secondly the guideline acts to protect against those who have no legal interest in a site and still submit it for consideration.

I stress that there are no legal ownership problems, the title of the land clearly details the ownership, the dispute over the future of that site is between my sister and myself which is a civil matter. The referenced guidelines, which Nicola has helpfully pointed out, detail that if there is a difficulty with connection to the availability of a site your role is simply to identify if this can be realistically overcome. In this instance it can be by a court order, again which Nicola herself also referenced.

Turning to Nicola's second gripe detailed in her letter, it is my understanding that the consideration of a non-designated heritage asset would only be considered at the stage when planning is actually applied for. At this time this would directly correlate with the actual significance of the building in question. This again is not the purpose of your consultation and would be a matter for the planning office but in any event given that a planning permission has just been granted on a site less than 50 yards from Gould Farmhouse I also do not see this as a relevant factor.

I have taken issue with the fact that Nicola has detailed within her letter that my son Quenton has somehow been involved with my submission of Orchard and your subsequent handling of the matter. I will be writing to her directly on this point as this is most certainly not the case and no preference has been shown you have merely carried out your job. I would like to categorically state that Quenton is aware of my submission but has not actively assisted me and is in fact nothing to do with him.

Again I am sorry for the tone of Nicola's letter to you.

Yours sincerely

4th July 17

To: Michael and Vicki Miller Cc: Nicola Pye

Fwd: NPG Orchard

Dear Michael

Thank you for your letter of 4th July, which will be forwarded to the working group for discussion.

Kind Regards

Sue Gould

on behalf of MSA Neighbourhood Pla