ID13

**In the matter of the Public Inquiry ref APP/B83438/W/24/3344014**

**Dated 8th October 2024**

As a rule 6 witness the **Churnet Valley Conservation Society's** closing statement is as follows:-

To summarise our position, sir, primarily our purpose here has been to lend our whole-hearted support to the local council in its refusal decision, and to endorse all the reasons it has brought forward to justify its case so far.

In this Inquiry we have listened to and observed the arguments and the dialogue between the two main parties and we remain firmly convinced in the merits of the decision of the PAC to refuse this application.

We also have argued that the thoroughness and fairness of the local councillors' actions in considering all the pros and cons of the application and the dutiful way in which they have taken their responsibility very seriously, ensured that wisdom and common sense prevailed on the day.

On the basis of the case presented to them and from their interpretation of the plans of the site, the layout and the ancillary buildings, they were insufficiently enamoured with the overall design and such drawings, artistic or technical, to sway them to approve the application.

We sincerely believe too that the local councillors who refused the application will have been well aware of the strength of public feeling against the application from their local experience and knowledge of the site and the many issues surrounding it.

As to the finer points of the argument about the design of the lodges, is it any wonder that they came to their decision if, in submitting these plans, the appellant's agents had ***not*** provided conclusive proof of the precise nature of their composition, their appearance and technical structure to render the situation so obvious that the councillors would not be in any doubt as to what was involved.
i.e. were these going to be lodges in the purest and most traditional form as they had been led to expect would be the case, given the nature of the brochures and displays at public meetings, or as advertised in the media and flagged up periodically?

Or, were they to be just caravans clad in timber that the Councillors genuinely didn't like; that they had experienced elsewhere on other sites and whose visual impact, as arrayed on the site, would ***not*** be in keeping with the woodland idyll that they had been anticipating, or had been led to believe would be the case?

The fact that in these proceedings we have witnessed two highly qualified "experts" expressing such divergent views on the same subject matter is also troubling.
That conflict makes it abundantly clear that even if these erudite and much more experienced specialists cannot even now agree on the merits of the design as presented in the case, then how are we, the ordinary public, bound to interpret the evidence, or indeed how did the Councillors who represent us not make their decision in good faith, but also on the basis of what they perceived was the correct and accurate portrayal of the lodges as they understood the definition and were expecting.

The PAC were quite rightly envisaging a much better quality of lodges from the outline stages of the permission and the fact that what had been brought forward in the detail last October clearly did not cut the mustard with them even after their fulsome debate.

So why should they have been so "misguided ",to use Mr Suckley's word? Who led they astray? What had caused them to fail to see the merits of the scheme in full and to make the decision at which they eventually arrived?

To us, it is plainly the failure of the appellant's team to fully explain and to illustrate, in unequivocal terms, in their design application; in their numerous iterations of plans; and their years of preparations, precisely what was entailed with their definition and illustration of the lodge design that would convince the PAC members, without a shadow of a doubt, and to such an extent that no one would have been unclear as to what they meant, and what the council would be getting if they passed the application.

Put simply, if you don't provide a clarity and precise definition in the first place, how do you expect them to hit the mark, or not be misguided?

We hope therefore that in your mind, sir ,we have highlighted the short comings of this application from rational criticism of its design, to the omissions and variations in detail from the original concept upon which the development was based so many years ago.

We would hope too that you have been able to take in in your background familiarisation, how it came about and how it has progressed to this state at which we are now.

Also we would hope that it cannot have escaped your notice, sir, that the longevity of the circumstances from which the case has eventually emerged from its outline stages, that themselves were controversial and wavering, has reflected the many doubts as to whether the plans for the lodges, their construction, the design materials, density and distribution around the interior of the still unrestored quarry site, are delivering or promising to deliver, what had originally been envisaged as a luxury 'Center Parcs" type, woodland based idyll.

The crystallisation of those doubts was the justification of the PAC members at the hearing in giving their verdict.

For our part too we remain adamant that that concept is not attainable in the way that it was and ***is*** being portrayed by the Appellant's team.

It is a quarry, a desolate quarry, that needs restoration of a gentle, more pastoral nature, to bring it back to the state where it is absorbed into the sensitivity of the surrounding landscape of the Churnet Valley, and not exploited again by so large and artificial constructs that will lead to its noticeability once more amid what is essentially, a highly valued, rural landscape.

We must remember too that it is a greenfield site in planning terms and its restoration needs to be made to look like it is more rural and not so urban in nature.

Undoubtedly the intensity of so many lodges packed into the remnant space of the quarry is more reminiscent of the urban layout of a caravan park, and **not** a spacious woodland it is attempting to fulfil in accordance with its original outline design.

We are mindful of NPPF 43 that the right information is crucial to good decision-making, and so we have also argued that some of the information on which this case is assumed to be based, is incorrect and missing.
Where we have observed such, we have drawn your attention to it, sir, even though it might appear that the matters may have been perceived by some as concluded.

A major one is of course the environmental impact which you have requested to be updated, but whose original baseline lingered back well before 2014 and the outline application, with a scoping document of 2012, and when climate change was not yet established as such an important determinant of policy at the council.

The NPPF's objective is also to meet the needs of the present without compromising the ability of future generations to meet their own needs, and as such the EIA being brought forward should therefore be considered in the light of recent court cases as mentioned in our proof of evidence, such as the Pilkington Principle and the Hillside Estate case, and even more recently the Holgate judgement in the Cumbrian Coalmine case.

The need to reflect on these important legal changes has to be a priority in this matter.

We are also aware that other legal arguments have been submitted during the course of the preparations for this Appeal casting severe doubt on the question of whether the outline permission SMD/2016/0378 survived after the demise of SMD/2014/0682 and all its documentation.

If, as has been mentioned elsewhere, these had all been washed away at the withdrawal of the appeal in 2017, this in turn would completely undermine the validity of the reserved matters and this Appeal Inquiry.

We have also shown that, substantive changes from the outline permission in the reserved matters application, and of course
the stuttering and prolonged progress in the processing of the applications for the quarry development, and the lack of restoration for the last 10 years or more, again raise doubts over the wisdom and practicality of the whole scheme, and thus promulgate reasons to consider why such procrastination.

Surely, sir, a good plan would not require such delay and would succeed on merit and largely unopposed.

In concentrating upon application SMD/2019/0646 in terms of its overall layout and design and our criticism of it, we have also introduced and pursued wider areas of the argument in terms of Reservoir Issues, Site Stability, Contamination and Safety, and Heritage.

Sir , is it not also the likely case that the delays in preparation for the applications; the numerous changes of plans; and lack of progress in ground work on site; such as decontamination, or reservoir licensing and public safety concerns over the lakeside arrangements for the lodges sited around the deep, cold water body; the concerns over stability of the saturated, sandstone ledges and abrupt changes in water depth, and the presence of areas quick sands that have formed around the site, as well as the issues of traffic congestion, pollution and its likely environmental impact, have not helped the cause.

Instead they have reinforced the perception that we have been dealing with a series of planning applications that have been ill prepared, terrain oblivious, and outdated, culminating with this final one that therefore might well need a drastic re- consideration, if, indeed, it can be improved.

We also argue that it is **not** a narrow issue to be decided upon.

We are talking about the controversy in design, not of one, or two lodges or caravans; we are talking about **190 units** for want of a better word, all crammed into whatever useful space is available in the restricted confines of the former quarry which abounds with numerous safety worries.

Let us also remember sir that there are now substantive changes from the outline plan that we have illustrated, such as the fact that the number of lodges per quarry has changed since the outline plan was obtained; and the change in the ratio of the number of lodges for sale overall; the fact that quarry 2 plans for lodges are no longer in the frame because of the ground instability in quarry 2; the unauthorised alteration to the overflow system in the bund in quarry 3 and the attempt to alter the level in the reservoir contrary to the wishes of the Environment Agency: the failure to register the reservoir; and the lack of alternative means of access to the site, apart from cars, all add to the impression, which undoubtedly played on the minds of the PAC as they deliberated this application, that the quality of the accommodation that was promised, had not emerged in these final phases and did not deserve approval.

In our view, sir, substantive changes from the outline permission in the reserved matters application to which we have drawn attention, mean that a new outline permission should now be sought.

In our proof of evidence, we have shown that in order to obtain the outline permission 0378, the plans for the hub were reduced in height from what they had originally been at the initial stage, but that in turn meant that in 2019, when this permission was brought forward, the realisation of the lack of space for the accommodation of the promised hub features from 2016, necessitated the use of the former lab buildings.

Remember too that in obtaining that permission, the appellant's agent's openly admitted in the application letter from Avison Young, to the case officer Mrs Curley, dated the 26th November 2019, **after the submission of this reserved matter 0646,** that the Appellant could not comply with the terms of the outline permission 0378 in respect of the details for the appearance, scale, layout and landscaping which is the main issue of the application SMD/2019/0646 and this appeal.

Quote

*"The majority of the uses proposed are consented under the outline permission (LPA ref: SMD/2016/0378) however it is not possible for Laver Leisure to provide all of these uses within the Hub Building proposed under the Phase 1 Reserved Matters application. As such, the most logical option is to accommodate these employment generating facilities within the existing laboratory building which is located just outside of the red line boundary of the outline planning permission and in proximity to the main 'Hub Area' of the leisure park. This development will be brought forward as part of Phase 1 of the development and integrated within the wider leisure park for use by visitors."*

Evidence extract from letter p .2 para 2

In other words, in design terms the plans for the reserve matters SMD/2019/0646 were not sufficient to meet the standards upon which the outline permission was granted.

They have had to go beyond the parameter red line in order to do so.

Sir, this is a serious misjudgement and another example of the appellant not fulfilling its original promises, one of the several bones of contention behind the Council's refusal of the reserve matters.

The conditions of the outline permission SMD/2016/0378, as revealed above, dictate that as far as the hub buildings go, the threshold for use and the nature of the development granted within the redline boundary has to be upheld and the maximum area restriction does not permit an overlap.

An assumption that because it has obtained the outline permission **within** the red line boundary does not entitle the Appellant to piggy back additional design features using that as argument for inclusion when the reserved matters cannot encompass those details per se.

CVCS therefore strongly contend that the admission by the Appellant cited above, that it cannot meet the details for the appearance, scale, layout and landscaping which is the main issue of the application SMD/2019/0646 and this appeal, is crucial to the argument for refusal.

And finally, sir, you will remember that we heard during Mr Suckley's evidence that the appellants took ownership of the quarry in 2010.

He also agreed that in doing so, they took over all liability from Sibelco, the previous owners, including the restoration of the quarry.

However, what he seemed to forget was that that liability included all the legal obligations for the curation and preservation of the former listed building that had been carefully stored the quarry for that very purpose and was required to be re-erected in the quarry *"**at the completion of its restoration**"*

Now, sir, that is a key phrase within the wording of the LBC that has been conveniently overlooked by everybody.

**"At the completion of the restoration of the quarry."**

That time factor is critical.

The LBC was very specific in its terms for a special reason because Mr Alan Taylor, the County Council officer who issued the consent initially, wanted to ensure that the building was rebuilt when the quarrying ceased and so he specified that timescale.

It had to be
*At the completion of its restoration* ... the restoration for which, as Mr Suckley agreed, the Appellant is responsible.

You will recall also, sir, that Mr Suckley admitted he did not know what exactly happened to the ownership of the stones in his testimony.

**And we believe him.**

However, we suggest sir that he was unsure because in reality that ownership never left the Appellant.

The stones or the deconstructed building were carefully stored in the bund the quarry in 2005. They were so carefully stored that they were laid out on the ground in discrete piles and on pallets so as to form an exact footprint of the original stable block building within the bund.
It was done deliberately in order to make the rebuilding from the archived plans and photographs easier.

Mr Suckley is aware and so are we, that the overwhelming majority of the stored material is still there, exactly where it was put at the time.

You no doubt observed them, sir. on the ground plan as you visited the site.

And unlike Mr Suckley's analogy of the parked car on the drive that he used, those stones go with the ownership of the quarry.

They were not intended to be traded. They were to stay there until such time as the quarry was restored and that restoration as we know, is the Appellant's obligation.

Sir, we have to think of it this way;

The LBC permitted the owners of the quarry at the time to proceed in opening up and creating quarry 3.

As a result of it, Quarry 3 is now the area into which the owners of the quarry wish 60 of the lodges/caravans to be located in the application before us.

Without those specific conditions of the LBC, it could not happen.

Sir, you know the importance and the consequences of the legislation behind an LBC and were kind enough to remind me early in these proceedings of the seriousness of such matters.

However, we believe you do need to examine those LBC terms again now for the reasons I have just explained.

Those stones have to be accounted for by law.
They were put there for a purpose.
The purpose deliberately bound the owners of the quarry and their inclusion to the restoration plan.

They are still present on the 0646 site and as such they need to be dealt with in accordance with the plans that the quarry owner has now brought forward for consideration.

Sir, we think it is vital that in weighing up the planning balance that you should examine in fine detail the obligations placed on the Appellant by that LBC.

It is a thorny issue that we must leave you with you, sir, in order to pronounce upon it as to whether this is an undesignated heritage asset, or not, or indeed how it has evolved, and how those conditions of the LBC must apply.

Also, sir we must emphasise that not only is the continued presence of these stones a contentious issue, but one that should be part of the new EIA also, because they have been there since 2005 and the County Archaeologist and the Council's Conservation Officer have made comments in the past on the matter.

Undoubtedly the need for an up to date Environmental Impact Assessment is paramount, not only because it takes into consideration all the changes of circumstances since pre 2014, when the original one for the development plans was compiled, but also, this new EIA you have commissioned has to be reviewed by the Statutory bodies, and by ourselves, and has to reflect recent legal changes about the long term effects of EIAs.

So, all in all, there is much to contemplate in this case, sir, and in concluding this statement on behalf of CVCS, we are most grateful for having had the opportunity to put forward our representations.

Thank you, sir.