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## **PLANNING APPLICATION WD/2016/2796/MAO**

1. The Steering Group of the Village Concerns Action Group represent the views of over 200 supporters from our community. We object to Planning Application WD/2016/2796/MAO.

The starting point is section 65 of the 1990 Act, which provides for a development order to make provision requiring notice to be given of any application for planning permission, for any applicant for planning permission to issue a certificate as to the interests in the land and for publicising such application, and as to the form, content and service of such notices and certificates. By subsection (2):

*“Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, is given notice of the application in such manner as may be required by the order.”*

4. By subsection 65(5):

*“A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied.”*

5. The Development Order is the Development Management Procedure Order. It states, at article 13:

“13.— Notice of applications for planning permission

(1) Except where paragraph (2) applies, an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant—

(a) by serving the notice on every such person whose name and address is known to the applicant; and

(b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of

the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.”

The leading case on this issue is the decision of the Court of Appeal in the case of Main v Swansea City Council & Ors [1985] 49 P & CR 26. That was a decision on the equivalent requirements of section 27 of the Town and Country Planning Act 1971, the wording of which contains the same mandatory wording (“*shall not entertain an application for planning permission*”) as does section 65(5).

It was held that notwithstanding this mandatory wording, a local planning authority still has jurisdiction to determine an application even if notice has not been given to every landowner. Even if there has been an error, the Court has a discretion as to whether to quash the planning permission. The court must look not only at the nature of the failure but also at such matters as the identity of the applicant for relief, the lapse of time, the effect on other parties and on the public.

Here, where the landowner not notified has written to the Council confirming that it was aware of the application, and has no objection, it is inconceivable that the Court would quash the permission if and when it is formally granted.

Katherine Gutkind and Tania Freezer  
Co Chairs  
Village Concerns