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Sent: 12 May 2026 16:12

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Subject: FW: Supplementary Formal Submission and Further Legal Grounds of Challenge – NMA/2026/0006 & NMA/2026/0007

Attachments: SUPPLEMENTARY FORMAL SUBMISSION AND FURTHER LEGAL GROUNDS OF CHALLENGE - 06.05.2026.pdf

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Sent: 06 May 2026 12:30

Subject: Supplementary Formal Submission and Further Legal Grounds of Challenge – NMA/2026/0006 & NMA/2026/0007

Dear Mr Stokes,

Please find attached a supplementary formal submission and further legal grounds of challenge in respect of applications NMA/2026/0006 and NMA/2026/0007.

This submission is supplemental to the Formal Objection and Legal Grounds of Challenge already provided on 4 May 2026.

The further submission identifies an additional and significant issue arising from the interaction between:

- the outline permission SMD/2016/0378;
- the Inspector's appeal decision in SMD/2019/0646;
- the subsequent approval of SMD/2023/0532; and
- the present section 96A applications.

The issue identified is substantial.

The present applications do not merely seek administrative amendment to isolated conditions.

They seek to alter the operative control framework upon which the outline permission, the Inspector's appeal decision, and subsequent permissions have all materially relied.

That includes proposed alteration to conditions relating to:

- highways mitigation;
- traffic management;
- routing controls;
- operational sequencing;
- external materials;
- design controls;
- and associated infrastructure safeguards.

Those controls were not peripheral.

They formed part of the regulatory mechanism by which the development was previously found acceptable in planning terms.

In particular, the supplementary submission addresses the legal consequence of the applicant now seeking, through section 96A, to defer or alter conditions which formed part of the adjudicated basis upon which the Inspector allowed SMD/2019/0646 on appeal.

The resulting inconsistency is direct.

The Council originally refused SMD/2019/0646 on grounds including design quality, appearance, and material treatment.

The Inspector subsequently allowed the appeal within a conditioned framework preserving detailed regulatory control over those matters.

SMD/2023/0532 then proceeded in reliance upon those conclusions.

The applicant now seeks to alter the timing and operation of the very controls which underpinned that decision-making sequence.

That is not a non-material amendment.

It is a substantive alteration to the planning framework governing the development.

Further, the interaction between the proposed amendments to both SMD/2016/0378 and SMD/2019/0646 creates a compounding legal inconsistency within the wider planning structure itself.

The position now identified goes beyond ordinary questions of planning judgement.

It concerns the lawful limits of the statutory power available under section 96A TCPA 1990.

The supplementary submission explains why the proposed amendments:

- alter the machinery of control;
- alter the timing and enforceability of safeguards;
- alter the basis upon which the Inspector found the scheme acceptable;
- compound inconsistency within the interdependent planning permissions; and
- further detach the implemented scheme from the scheme previously assessed, conditioned, and relied upon.

The resulting position engages established authority including Pilkington and Hillside and gives rise to a clear and foreseeable risk that any approval under section 96A would be made outside the lawful scope of the authority's statutory powers.

That risk has now been expressly identified.

The authority is therefore formally on notice of the position prior to determination.

In those circumstances, the issues identified cannot properly be characterised as matters of routine officer discretion or delegated administrative judgement.

The expectation remains that both applications are referred to the Planning Applications Committee and that:

- the original submission dated 4 May 2026; and
- the present supplementary submission dated 6 May 2026

are both expressly addressed within the officer's report and clearly brought to the attention of Members as part of the decision-making process.

Please also ensure that both submissions are:

- acknowledged upon receipt;
- entered onto the planning register;
- and made publicly available without delay in respect of both applications NMA/2026/0006 and NMA/2026/0007.

Yours faithfully,

Jarrod Ford

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SUPPLEMENTARY FORMAL SUBMISSION AND FURTHER LEGAL GROUNDS OF CHALLENGE

Applications: NMA/2026/0006 and NMA/2026/0007
Moneystone Quarry

Date: 06th May 2026.

1. INTRODUCTION

1.1 This supplementary submission is provided further to the Formal Objection and Legal Grounds of Challenge submitted on 4 May 2026 in respect of applications NMA/2026/0006 and NMA/2026/0007.

1.2 It is to be read alongside that earlier submission.

1.3 This supplementary submission addresses a further and distinct legal issue arising from the relationship between:

- SMD/2016/0378, the outline permission;
- SMD/2019/0646, the Phase 1 reserved matters approval determined on appeal;
- SMD/2023/0532, the subsequent Phase 2 approval; and
- the present section 96A applications.

1.4 The issue is this:

The applicant now seeks to alter, by section 96A, the timing and operation of conditions which formed part of the control framework by which the development was previously found acceptable.

1.5 That is not a non-material amendment.

1.6 It is a substantive attempt to alter the regulatory foundation of the approved development after that foundation has already been relied upon by the Inspector, the Council, and subsequent permissions.

1.7 The consequence follows.

The proposed amendments are material in planning terms and fall outside the lawful scope of section 96A TCPA 1990.

2. THE DECISION-MAKING CHAIN

2.1 The present applications cannot lawfully be considered in isolation.

2.2 The relevant permissions form an interdependent decision-making chain:

- SMD/2016/0378 established the outline permission and the strategic control framework;

- SMD/2019/0646 concerned Phase 1 reserved matters, was refused by SMDC, and was then allowed on appeal;
- SMD/2023/0532 concerned Phase 2 and proceeded in reliance upon the Inspector's conclusions in SMD/2019/0646.

2.3 The present section 96A applications seek to alter conditions attached to both:

- the outline permission, SMD/2016/0378; and
- the appeal-approved Phase 1 permission, SMD/2019/0646.

2.4 The proposed amendments therefore do not merely affect isolated condition wording.

2.5 They affect the control architecture of the scheme itself.

3. SMDC'S REFUSAL OF SMD/2019/0646

3.1 SMDC's refusal of SMD/2019/0646 was not technical, incidental, or peripheral.

3.2 It went directly to:

- design quality;
- appearance;
- materials;
- detailing;
- the character of the lodges;
- and the relationship of the development to the sensitive site and its surroundings.

3.3 The Council's refusal reason expressly criticised the proposed lodges as being "little more than caravans with cladding".

3.4 The Council further objected to the proposed materials, the absence of green roofs, the lack of creativity, and the lack of sufficient detailing.

3.5 The Council's position was therefore clear.

3.6 Design, appearance, materials, and detailing were central to the planning dispute.

3.7 Those matters were not marginal.

3.8 They were determinative of the Council's original refusal.

4. THE INSPECTOR'S APPEAL DECISION

4.1 The Inspector subsequently allowed the appeal.

4.2 However, the appeal decision did not treat materials, appearance, or design control as peripheral.

- 4.3 To the contrary, the Inspector treated those matters as central to the acceptability of the scheme.
- 4.4 The Inspector's decision must be read as a whole.
- 4.5 The scheme was not found acceptable in an uncontrolled form.
- 4.6 It was found acceptable within a defined regulatory framework secured by conditions.
- 4.7 The Inspector expressly relied upon conditions requiring the approval of detailed materials samples and associated design controls.
- 4.8 Those controls enabled the Council to retain detailed control over colours, textures, appearance, and material treatment.
- 4.9 The legal significance is substantial.
- 4.10 The appeal was not allowed despite those conditions.
- 4.11 It was allowed because those conditions preserved the regulatory control necessary to render the scheme acceptable.
- 4.12 The conditions were not decorative.
- 4.13 They were not administrative.
- 4.14 They were not optional.
- 4.15 They formed part of the operative planning basis upon which the appeal was allowed.
- 4.16 The significance of those conditions is further reinforced by the nature of the appeal proceedings themselves.
- 4.17 The appeal process involved detailed examination of the relationship between lodge design, appearance, material treatment, permanence, and the planning distinction between caravan-style development and development capable of satisfying the required standards of design quality within the site context.
- 4.18 Those matters were therefore not incidental considerations addressed after the principal planning issues had been resolved.
- 4.19 They formed part of the central planning controversy before the Inspector.
- 4.20 The resulting conditions emerged from that contested process and formed part of the mechanism by which the Inspector concluded that the development was capable of acceptability in planning terms.

4.21 The present attempt to defer or alter the operation of those controls therefore does not concern peripheral drafting adjustments.

4.22 It concerns the alteration of conditions which formed part of the adjudicated basis upon which the appeal was allowed.

5. RELIANCE BY SMD/2023/0532

5.1 The subsequent approval of SMD/2023/0532 proceeded on the basis of the Inspector's conclusions in SMD/2019/0646.

5.2 In practical planning terms, the Inspector's findings on lodge design, appearance, and materials were treated as having settled the issue.

5.3 The Phase 2 decision-making process therefore proceeded on the footing that:

- the lodge design had already been accepted on appeal;
- the material and appearance issues had already been assessed;
- the Council could not simply revisit the same design objection;
- and the relevant controls remained in place.

5.4 The Inspector's reasoning in SMD/2019/0646 therefore became embedded within the wider planning framework of the overall scheme.

5.5 It was relied upon in the subsequent decision-making chain.

5.6 That reliance has consequences.

5.7 If the Inspector's decision is used as the answer to design and materials objections, the conditions which underpinned that answer cannot simultaneously be diluted, deferred, or re-sequenced through section 96A.

6. THE PRESENT SECTION 96A APPLICATIONS

6.1 The present applications now seek to alter the timing and operation of the very controls upon which the Inspector's conclusions and subsequent approvals relied.

6.2 In respect of SMD/2019/0646, the applicant seeks to vary conditions relating to:

- approval of external materials;
- hub roofline details;
- signage;
- refuse arrangements;
- street furniture;
- and associated operational controls.

6.3 The stated justification is that the information is "not required prior to development commencing".

6.4 That proposition is inconsistent with the basis upon which the Inspector allowed the appeal.

6.5 The Inspector found the scheme acceptable because the Council retained control over those matters.

6.6 The applicant now seeks to defer the operation of that control.

6.7 In respect of SMD/2016/0378, the applicant also seeks to vary conditions relating to:

- boundary and enclosure details;
- traffic management;
- highways mitigation;
- routing;
- operational sequencing;
- and associated infrastructure controls.

6.8 The applicant again proceeds on the basis that the relevant information is not required prior to commencement.

6.9 These are not isolated textual adjustments.

6.10 They are changes to the machinery of control.

6.11 They alter when, how, and whether safeguards operate.

7. THE RESULTING INCONSISTENCY

7.1 The contradiction is direct.

7.2 The sequence is as follows:

- SMDC refused SMD/2019/0646 because design and materials were considered unacceptable;
- the Inspector allowed SMD/2019/0646 because those matters were acceptable within a controlled framework secured by conditions;
- SMD/2023/0532 then proceeded in reliance upon the Inspector's findings;
- the applicant now seeks, through section 96A, to defer or dilute the controls which underpinned both decisions.

7.3 That sequence is legally untenable.

7.4 The Council cannot lawfully rely upon the Inspector's conclusions as a basis for subsequent approvals while simultaneously permitting the underlying control framework to be diluted, deferred, or re-sequenced through section 96A.

7.5 To do so would be to rely upon a planning balance which no longer exists in the same form.

7.6 It would allow the applicant to retain the benefit of the Inspector's conclusion while removing or delaying the controls upon which that conclusion depended.

7.7 That is not a non-material amendment.

7.8 It is a retrospective alteration of the planning basis upon which the scheme was found acceptable.

8. SECTION 96A AND MATERIALITY

8.1 Section 96A TCPA 1990 permits a local planning authority to make a change to a planning permission only where the change is not material.

8.2 The question of materiality must be assessed in the context of the permission as a whole.

8.3 That context is decisive here.

8.4 The conditions now targeted are not free-standing administrative details.

8.5 They are part of the control framework by which:

- the appeal was allowed;
- the design and materials objections were answered;
- subsequent approvals proceeded;
- and the development was rendered acceptable.

8.6 A change to the timing or operation of those controls is material because it alters:

- the timing of regulatory control;
- the enforceability of safeguards;
- the relationship between approved design and delivered development;
- the basis upon which the Inspector allowed the appeal;
- the basis upon which SMD/2023/0532 proceeded;
- and the coherence of the overall scheme.

8.7 These are changes to substance, not form.

8.8 They cannot be treated as non-material.

9. PILKINGTON AND HILLSIDE

9.1 The position further engages the principles in Pilkington and Hillside.

9.2 The Pilkington principle prevents planning permissions being used in a way which produces an inconsistent planning outcome.

9.3 The Hillside principle confirms that a planning permission for a coherent scheme must remain capable of lawful implementation as the scheme approved.

9.4 The present applications offend both principles.

9.5 The applicant is not merely seeking flexibility.

9.6 The applicant is seeking to alter the regulatory foundation of a multi-phase permission after that foundation has already been used to justify later approvals.

9.7 If the outline and Phase 1 control framework is altered after later permissions have relied upon it, the scheme being implemented is no longer the scheme that was assessed, conditioned, and relied upon.

9.8 That inconsistency is incapable of being reconciled with the basis upon which the earlier decisions were reached.

10. GOVERNANCE AND DECISION-MAKING CONSEQUENCE

10.1 This is not a routine matter of planning judgement.

10.2 It is a question of statutory power.

10.3 If the changes are material, section 96A is not available.

10.4 The authority cannot lawfully approve, under section 96A, amendments which alter the operative control framework upon which the development was previously found acceptable.

10.5 Any determination under section 96A would therefore give rise to a clear and foreseeable risk that the decision would be made outside the statutory powers available to the authority.

10.6 That risk is now expressly identified.

10.7 The authority is on notice of it.

11. CONCLUSION

11.1 The proposed amendments cannot lawfully be treated as non-material.

11.2 They go directly to the conditions which secured the acceptability of:

- design;
- materials;
- appearance;
- operational controls;
- traffic management;
- highways mitigation;

- and the functioning of the site.

11.3 The Council's own refusal, the Inspector's appeal reasoning, the subsequent reliance in SMD/2023/0532, and the applicant's present section 96A applications together expose a direct inconsistency in the decision-making chain.

11.4 The Inspector's decision cannot be relied upon as a settled answer to design and materials objections while the conditions securing that answer are simultaneously deferred, weakened, or re-sequenced.

11.5 The control framework which made the scheme acceptable is now being altered after the event.

11.6 That is the decisive point.

11.7 The conclusion is unavoidable.

The section 96A applications are material in planning terms and fall outside the lawful scope of section 96A TCPA 1990.

11.8 They cannot lawfully be approved under that provision.

END