

Pre-Inquiry Note 2

APPEAL REF: APP/B1740/W/23/3324227

**Site address: Orchard Gate, Noads Way, Dibden Purlieu, Hampshire
SO45 4PD**

Appellants: AJC Group

Local Planning Authority: New Forest District Council

In the recent judgment in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) the judge found that the test in Wheatcroft was "flawed" because it conflated two tests which must be considered **separately**: 1) a substantive test and 2) a procedural test.

- The **substantive** test is whether the proposed amendment(s) involves a "substantial difference" or a "fundamental change" to the application.
- The **procedural** test is whether the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved (in the appeal) and, if so, whether such unfairness could be cured, for example by re-consultation.

In view of this the Inspector would like your views on the following:

- A. Whether the amended plans constitute a "substantial difference" or a "fundamental change" to the application.
- B. Whether the amended plans would cause unlawful procedural unfairness to anyone involved in the appeal.

The Inspector would like to receive your response, copying in the other main party, by noon on the 29 September 2023.