RFI7641 – correspondence with the Planning Inspectorate

From: Defra
Sent: 09 March 2015 13:57
To: PINS
Cc: PINS, Defra
Subject: RE: Query: waste land of the manor

Hi [name removed] – thanks. See 5.14 of the guidance:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383531/pb13659-cra-guidance201412.pdf

Thanks,

[name removed]

From: PINS
Sent: 06 March 2015 16:02
To: PINS, Defra
Cc: PINS, Defra
Subject: RE: Query: waste land of the manor

[name removed]

You should deal with the application as advertised.

[PINS]

From: PINS
Sent: 06 March 2015 15:40
To: Defra, PINS
Cc: PINS, Defra
Subject: RE: Query: waste land of the manor

And if they submit an application that includes most of the provisional land but then ask the CRA to change the application plan to remove a bit more, I presume then that I shall just deal with what the applicant says is their final application plan.

(Sorry, this sounds a little contrived but I want to be clear)

Cheers,

[name removed]

From: Defra
Sent: 06 March 2015 15:00
To: PINS
Cc: PINS, Defra
Subject: RE: Query: waste land of the manor

Hi [name removed] – thanks. [PINS' name removed]'s right: it can only be the land identified in the application. You have no jurisdiction over the other bit unless and until someone applies to register it and it's referred to PINS.

Thanks,

[name removed]

From: PINS
Sent: 06 March 2015 14:56
To: PINS
Cc: PINS, Defra
Subject: Query: waste land of the manor

[name removed]

My feeling is that you should consider the application as framed (that is the approach endorsed by the courts in planning applications). So, for whatever reason, if the application includes only part of the land which was provisionally registered then that is all you can take into account.

I've copied in [Defra] in case [] has any views.

[name removed]

From: PINS
Sent: 06 March 2015 12:29
To: PINS
Subject: Query

[name removed]

Can you advise me …. Where we receive an application to register waste land of the manor, the application obviously needs to satisfy the criteria, one of which is that it was provisionally registered. In my example it was, so no problem there. However if the applicant applies to register only a part of the provisionally registered land, not because it wouldn't satisfy the other criteria (ie being open, uncultivated etc) but for other reasons (eg not to inconvenience the landowners), should the Inspector consider <u>only</u> the application land and look no further, or should the whole of the provisionally registered land be looked at (assuming of course the notice served would have covered everyone with an interest?)

Just checking

[name and contact details removed]

From: Defra
Sent: 23 September 2014 14:43
To: PINS
Cc: Defra
Subject: RE: Waste land of a manor applications

[name removed]

reg 28 lists the things that must be taken into account when determining an application. But if a site visit makes plain that the land is, say, clearly occupied or enclosed then the application would fail and the planned PI or hearing could be cancelled and the matter determined on all the evidence adduced to date. The power to cancel and determine based on the evidence adducted to date is provided by reg 35(2). Sure, you could take into account the evidence submitted up to that point but if land is visibly enclosed, e.g. high fencing, then it really doesn't matter what the rest of the evidence says as the land is no longer open and would fail the tripartite test of waste land.

I think that most applications will continue to be determined after a PI or hearing as it will rarely be the case that the land visibly fails the tripartite test, but if applications can be determined on the basis of the site visit then they should.

Thanks,

[name removed]

From: PINS
Sent: 23 September 2014 14:02
To: Defra
Cc: Defra
Subject: RE: Waste land of a manor applications

Thanks [name removed] but I am confused. The regs make clear that the determining authority must take into account other things (e.g. written reps) and not just the findings made at a site visit. So any revised guidance cannot say that an application could be failed on the basis of a site visit alone.

Am I missing something?

[name removed]

From: Defra
Sent: 23 September 2014 13:27
To: PINS
Cc: Defra
Subject: RE: Waste land of a manor applications

[name removed] – thanks. Rumours, rumours, eh?

The minister met a delegation of farmers from Cornwall, plus [name removed] from CLA, to discuss waste land applications in West Penwith. What the minister agreed to was that we would consider any submission by the CLA which demonstrates that our advice re the meaning of 'open, unoccupied and uncultivated' is wrong. He also agreed to amend the guidance to make clear that it is possible that an application could be failed on the basis of a site visit if it is clear that the land fails any of the tripartite definition. This can be done under existing rules but the guidance doesn't mention it. In practice I think very few applications could be failed on this basis, but we will mention it as a possibility. But there will be no changes to legislation on this point and it'll remain at the discretion of the determining authority.

Thanks,

[name removed]

From: PINS
Sent: 22 September 2014 15:51
To: Defra
Subject: Waste land of a manor applications

[name removed]

Rumours are flying around here that following a recent meeting with the CLA ([name removed]) Defra has agreed that in future all waste land of a manor applications should, in effect, have a pre inquiry meeting to determine whether the land is open, uncultivated and unoccupied. Only if this test is satisfied can the application proceed and be assessed against the remaining criteria.

I'm sure Defra would not have agreed to this radical change to the determination procedure without first consulting PINS and I hope it is no more than a rumour.

Regards.

[name removed]