BEFORE THE SELWYN DISTRICT COUNCIL

UNDER	the Resource Management Act 1991
IN THE MATTER	of Proposed Plan Change 6 to the Selwyn District Plan
A N D	
IN THE MATTER	of Submissions and further submissions by Dennis and Deborah Chapman

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EVIDENCE OF ALASTAIR CHAPMAN ON BEHALF OF DENNIS AND DEBORAH CHAPMAN

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Introduction

1. My name is Alastair John Chapman. As well as brother and brother-in-law of Dennis and Deborah Chapman, and trustee of the Chapman Hall Trust, I act as project manager for the planning (from August 2008) and construction of their new home at the corner of Cossars and Gerkins Road, Tai Tapu.

2. I am authorised to give this evidence on behalf of Dennis and Deborah in my capacity as both a personal representative and project manager.

3. Dennis and Deborah Chapman are a married couple in their mid fifties with 4 adult children. During 2007 Debbie began planning a smaller home to see them through to retirement and beyond. Both Dennis and Debbie have always had a bent towards things that are practical and efficient, hence their desire to build an autonomous house that is absolutely efficient in every aspect. Autonomous in this context means not being connected to the electricity grid and to be self sufficient for water and sewerage disposal. Their aspiration for an autonomous house is coupled with one that does not compromise on all the amenities provided in a 21st century, modern house. Professionally, Dennis has interests in leading-edge technology on the management of solar voltaic electricity, and various other technologies that he is determined to develop for implementation in his own house, and for the benefit of future building standards.

The Chapman Site

4. By early 2008 the Chapman's decided to return to an elevated site - having built their original home on Huntsbury Hill, allowing unimpeded northerly aspect. This led them to signing a Sale and Purchase Agreement on 22 February 2008 for the property on the corner of Cossars and Gerkins Rd.

5. Confirmation of the contract was subject to a 20 working day Due Diligence period, and the conditions on this included the Chapman's satisfying themselves as to:

   (e) the ability to build a house as required by the purchaser on the Property without having to obtain any resource consents;

   (g) geotechnical conditions on the Property for the erection of buildings and obtaining of an engineering report on land stability.

6. In relation to (e), Dennis contacted Rosie Jowett of Selwyn District Council to check what was acceptable. He was advised that a house could be constructed

anywhere on the site including up to its highest point (47m amsl) provided it met certain rules relating to, recession planes, entrances/exits and building height. Dennis was satisfied all of the rules discussed could be complied with while still accommodating the house they were planning for and that no resource consent would be required.

7. In relation to (g), Dennis contracted Warren Lewis of Lewis and Barrow Ltd to do a Geotechnical Site inspection with the aid of a 12 tonne excavator. The resultant Geotechnical report confirmed the site was suitable for the construction envisaged.

8. The contract was duly confirmed by lawyers letter on 19 March 2008 and formally confirmed on 28 March 2008. Settlement occurred on 30 September 2008.

Chronology of events

9. In July 2008 application was made for Building Consent 085246 for the dwelling that Dennis and Deborah had decided upon. The PIM issued in respect of this application noted four potential non-compliances with the District Plan:

   (e) The height of the dwelling;

   (f) Whether the dwelling was in fact one dwelling or two;

   (g) Earthworks; and

   (h) Sealing of the vehicle crossing.

10. As a consequence, our architect put together and submitted what appeared to be an application for resource consent to erect a dwelling that intrudes the recession plane. That application was put on hold pending receipt by the Council of further information, in particular, a landscape report assessing the height of the building and proposed earthworks. This information was requested under letter dated 24 July 2008.

11. It became apparent to us that we needed some expert planning assistance. Connell Wagner Ltd was therefore engaged to assist with the consenting process in August 2008. A meeting was held on 26 August 2008 with Council staff Vanessa Beavon, Ben Rhodes, Connell Wagner staff Jeremy Williams, Michael Branthwaite, our Architect Boyd Chamberlain and Dennis and Alastair Chapman to put forward plans for discussion as regards building consent and planning consent issues.

12. The outcome of the meeting was that if the height of the dwelling could be reduced to comply with the 8m maximum, then the only resource consent required would be for earthworks. Applications for breach of the earthworks provisions would need to be made to both Selwyn District Council and Canterbury Regional Council. In all other respects, the plans could be amended to enable a permitted dwelling on site. The planned dwelling had two protrusions through the 8m line which contained water tanks at sufficient height to produce a head of water pressure and flow sufficient to provide fire sprinklers to at least part of the building. It was agreed at the meeting that removing the water tanks to a separate tower of up to 12m would mean that it was an "accessory building" and therefore did not have to comply with the 8m height rule.

13. Towards the end of the meeting I directly enquired of the Council as to whether there were any other issues from a planning perspective that we needed to be aware of. The answer given was that there was not.

14. During September and October Connell Wagner proceeded to prepare an application for land use consent to allow the required earthworks. This application was filed with the Council on 21 November 2008 (SDC ref 085401) and receipted by the Council 25 November 2008. This application was necessary because some of the cut faces to bed the basement of the house into the hillside were over 2m for over 5% of their length.

15. On 29 November 2008 the Council publicly notified Plan Change 6. Subsequent discussions between Connell Wagner and the Council culminated in the Council insisting that resource consent for the construction of a dwelling was now required also along with a further assessment of environmental effects.

16. Building Consent for Stage one construction of the basement and associated earthworks was granted by Council on 18 December 2008, along with a PIM which notes the need for consent for the dwelling as a direct consequence of Plan Change 6. The intention being to have all earthworks and basement construction completed by the onset of winter 2009.

17. On 16 March 2009 the Regional Council granted consent for the earthworks (CRC ref CRC092420).

18. Aurecon (formally Connell Wagner) submitted a land use consent application for the erection of the dwelling with Council on 6 April 2009 (RC 095086). While addressing issues raised by Plan Change 6, this application included modified plans which: removed the haha wall at the 42m line; removed the water tower (accepting that a compromise could be achieved by less efficient but acceptable

pressure vessels in the basement) and connecting gateway and fencing; put the tractor shed under the now raised BBQ area; raised ground levels along the western side of the house; and included a new landscape plan which substantially plants out, in natives recommended for the area, the whole of the western face of the property.

19. Resource consent 085401 and resource consent 095086 have been assigned to an external consultant (Mr Johnathon Clease) for processing. At the request of Mr Clease the applicant agreed to combine RC 085401 and RC 095086 into a single report for administrative and procedural ease. This combined report was submitted to Mr Clease on 11 June 2009.

20. On 7th and 8th July the applications for earthworks and a dwelling were publically notified with submissions to close on 6th August 2009.

Effect of Plan Change 6 on Dennis and Deborah Chapman

21. The Chapmans consider they have been seriously disadvantaged by the unfortunate timing of the notification of Plan Change 6. It came less than 1 week after their earthworks consent application was receipted to enable a dwelling they had every reason to expect would be able to be constructed as of right. They had undertaken due diligence before purchasing the site as they had no other use for or reason to buy the site other than for erecting their planned home.

22. From their August meeting with the Council they understood that they had complied with, or addressed all matters, pertaining to the erection of their dwelling and that resource consent was only required in respect of the earthworks.

23. Plan Change 6 proposes that any dwelling on site (irrespective of size, location or design) would have to go through a consenting process. The Chapman's have gone from knowing exactly what is allowed on site to not knowing what will be allowed (if anything). Had inquiries during the due diligence period disclosed the need for a resource consent for a dwelling there is no doubt in my mind that the contract would have either been cancelled or amended so that any necessary resource consents were obtained before the Chapman's committed to purchase. In addition, the Chapman's have been told by their advisors that if Plan Change 6 had been discussed at the August meeting, a Certificate of Compliance could have been applied for to preserve their building rights.

24. It is clear from the conditions upon which purchase of the site was conditional that avoiding a consent process for the dwelling was of importance to the

Chapman's. This is for two reasons – firstly the costs and uncertainties involved and secondly that they wished to have maximum flexibility to design and build the house they aspired for.

25. Already Plan Change 6 has proven itself extremely costly to the Chapman's in terms of consultant, legal and further architect redesign fees and there are more costs to be incurred yet. In addition, the outcome of both this planning process and the application process are wholly unknown. There is a possibility they will not be able to erect the house that they have planned for over three years now.

Alternative uses of Site and Design Flexibility

26. The site comprises 4.6337ha of mainly steep land (virtually all, except for the top has a slope of 1m vertical:3m horizontal). Its size combined with its topography precludes it from being used for rural purposes in an economically viable way. The site has considerable amounts of exposed (or near surface) rocks and rocky outcrops, that while superb as spoil for reuse in sympathetic landscaping, make any form of cultivation uneconomic. No water source for intensive irrigation is available. This probably only leaves uneconomic seasonal grazing.

27. The property has a considerable cover of notified weed pests (gorse broom and boxthorn) as advised by the Regional Council. The planned native planting is intended to substantially replace this, similar to native regeneration on other sites in the Port Hills.

28. As I have mentioned before, Dennis and Deborah's vision is to create a sustainable and autonomous house. The vision through to retirement and beyond includes all essential housing requirements being on the ground floor level, i.e. all living activities (kitchen, dining, living, bathrooms, toilets), 2 car garaging and 2 bedrooms all with wheelchair access. Exhaustive evaluation of available technologies in sustainable housing has been undertaken. The design of this house implements those technologies, with many being taken to a new level. Technologies such as thermal mass, thermal bridging, insulation materials, harnessing all solar energy (not just that which is collected by solar voltaic cells), storage of surplus energy (both electrical and thermal), airflow handling techniques, energy efficient lighting, as well as water collection and re-use both of potable and grey water. Roof water directly to potable water tanks in the basement, gravity fed. Considerable flat raised hardstand areas (some of which are below grade) and the upper levels of the driveway are used to collect grey water which is gravity fed to the basement grey water tanks. These grey water tanks also provide the medium for the storage and reuse of thermal energy

29. The house has been planned with 44% of the dwelling below grade, which not only reduces its presence on the landscape but in this case allows for all the utilities to be totally concealed. The proposed plan change 6 amendments to earthworks volumes are unrealistic and in fact, in cases like this, counter productive. The existing district plan rules and interpretations are sufficient to allow complimentary developments.

30. Optimum siting of the house and septic tank system was confirmed by early advice from Hynds Lifestyle Waste Water Systems which identified the most suitable area for the output of the septic tank system (minimum distance from a boundary and maximum grade of slope) as being the area of relatively flat land directly to the south east of the house. The electrical usage of the sewerage system is important as its use is relatively constant throughout the year, and a minimum sizing of pumps are desirable particularly in cloudy winter days.

31. With virtually all of the property being an average of 1m:3m slope any alternative siting of the house is effectively precluded, even if one accepts that the views to the north and west could be abandoned. The detriment to value of positioning the house to nullify the panoramic view is a totally unrealistic proposition. A plan of terracing down the northern slope, while trying to achieve the benchmarks of all essential living on one level, with 8m height restriction and maximum efficiency would have the effect of making the whole structure considerably more visible from points north.

32. A flattish building site at around the 36m line in the south/eastern corner would be an uneconomic proposition from an outlook point of view. In addition, it is most certainly not acceptable as an autonomous house site as it would have serious limitations from shading of the solar energy, have a dust issue due to proximity to unsealed Gerkins Road in the prevailing easterly wind direction affecting the efficiency of the solar voltaic panels, and cause issues with sewerage irrigation efficiencies due to closeness of boundaries and probable uphill pumping.

33. Only 2 tiny portions of the site in very close proximity are below the 20m line demarking the Plan change 6 suggested boundary - one being in the N/W corner and the other being the W corner. Both have a grade of 1m:3m. Neither are attractive or economic building sites.

34. Incorporating sustainable technologies into the house design means that flexibility in its location, aspect and design is imperative. This attention to detail and efficiency requirements necessitates the optimum use of the siting and location of their proposed home.

35. It is the Chapmans belief that their planned house is an environmentally savvy use of the site. They are frustrated that their attempt to demonstrate how buildings can be designed to significantly reduce the need for external energy sources other than solar, is being delayed.

36. If the Chapman's have to compromise on design or location to the point that their aspirations would not be obtained, the personal stress and emotional costs (not to mention the sunk costs of over $1.2M) to them will be significant in that what they had hoped to achieve will simply be unattainable.

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Alastair Chapman

14 July 2009