

BAY VIEW CARAVAN OWNERS' ASSOCIATION
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31 October 2012

To all members of the Bay View Caravan Owners' Association,

Below in black text is the letter received from Anthony Esse, Director of Darwin (Swanage Bay View) dated 16th October. We believe that it has been sent to all of you. We have replied formally to his letter and you have copy by now.

However, in order to reflect the views of the Owners' Association, comments received from you have been noted and considered and most have been placed *in red italics* within the text of his letter. This is so that they are close to the original black text to which they apply. We hope that this will make it clearer than trying to compare our comments and his in two separate documents.

The Association has never published inaccurate information, only corrected Darwin's misinformation and sometimes made comments that Darwin do not agree with. A difference of opinion is not the same as inaccurate information.

If you would like to comment, or let the Association know how you feel having read Mr Esse's letter, or about your exclusion from using the Vista facilities by the park manager, Andy Bennett, for the October General Meeting and thereafter, then please email bayviewcaravanownersassociation@yahoo.co.uk .

So, to repeat, the letter from Anthony Esse to all owners is in black text, and the Association comments *are in red italics*.

16 October 2012

Dear Swanage Bay View Caravan Owners

In recent weeks I have taken a number of steps that I think all our customers should be made aware of with regard to the behaviour and conduct of the Owners Association.

(There is not and has not been anything untoward with the behaviour and conduct of the Owners' Association, as you all know. We can only imagine that is something Anthony Esse says in order to denigrate the Association. The Association comprises a number of highly qualified and motivated people, and all its business has been fully professional, complete and accurate. He has not provided any evidence to the contrary. The Association is motivated by a sense of natural justice and fairness as expected by the Office of Fair Trading, other representative bodies, any agreements and our licence.)

We all acknowledge the reasons why the Association was formed – but those days are long gone.

(The Association was formed about 5 years ago because of the abuse of power by Swanage Town Council. When Darwin took over SBV in 2009 we had hoped this would change. But it appears that Darwin is continuing to act with abuse of power, so those days ARE NOT LONG GONE. It is for the members to say when the Association is no longer needed, not Darwin. The Association is needed more than ever now to protect owners' interests and achieve fairness.

For example, there is the taking of commission from sellers rather than the buyer at SBV, problems owners have had trying to sell their caravans other than through the SBV sales office, problems owners with defective caravans have had getting their money back from SBV, the refusal of Darwin to meet and talk with the Owners' Association, the refusal of Darwin to include terms in the new draft licence that had previously been agreed with Swanage Town Council and which have been in operation since 2008, Darwin's actions on other sites in the UK that other Owners' Associations have made us aware of - this has not changed yet – see later.)

My team across the country strives to offer the best service to our customers and I am sure you will all agree that the service and environment at Swanage Bay View ("SBV") has improved considerably over the past few years. Indeed we have plans for continual improvements and upgrades in the future. We have every intention to make SBV one of the best parks on the south coast, operated to the highest standards.

(We would like to know when and how Darwin are intending to share these plans with us. What are the cost implications? Are they for our benefit as per the licence? Do we want it? Are Darwin going to ask us to pay for it? Our licence says that we only pay if it is for our benefit, and that is our decision.)

Recognition of The Owners Association.

We have recently withdrawn recognition of the Owners Association.

(We do not accept any of the reasons Darwin use to not recognise the Association as being valid at all. They appear to be a poor attempt to think up why not to deal with a representative body, the Association, that represents the views of the members, the caravan owners. We can only imagine that not recognising the Association will make it easier for Darwin to divide and conquer as many of our members have suspected.

This unilateral approach by Darwin completely contradicts Darwin's lawyer's recognition of the Association in 2010 as we said to Esse in our letter of 4 October 2012:

"When your lawyers, Burges Salmon, advised you, and agreed on your behalf, to recognise the Owners' Association in February 2010, as the evidence that the Owners' Association fairly represented owners' views was indisputable, it was on the basis that no conditions would apply. To introduce conditions now seems to us to break trust and is contrary to good customer relations and good will. This is not an action that will either please or impress the hundreds of customers who are members of the Owners' Association.")

We provided the Association with ample warning in our letters to the Committee on 8th and 28th August (please see www.sownerinfo.co.uk). The Committee unfortunately chose to ignore these warnings.

(All along we have been most willing to meet with Darwin (for almost 3 years now) but they have avoided all opportunities to meet that we have offered since March. We noted the warnings but knew that we were doing all that we could through NACO to meet with them.)

We will no longer communicate with any member of the Committee in their capacity as a Committee member. However, the door is always open to answer questions from individual owners.

(As the representative of over 200 owners it defies logic for Darwin to not speak with us. Only dealing with individuals is contrary to natural justice and common law if those individuals have the Association to represent them. Dealing with individuals only is a divide and conquer approach in the view of caravan owners, and Association members, a tactic used commonly by park owners in this industry.)

How does this affect caravan owners?

(It means that their common law right to be represented by the Association is going to be ignored by Darwin! We fail to see how this fits with natural justice, democracy or with good customer relations.)

As explained in James McConnell's letter of 8th August, there is a draft licence (please see www.sownerinfo.co.uk), which we have developed in full consultation with NACO and a number of existing caravan owners at SBV.

(NACO tell us they have not met formally with Darwin but have talked to them on the phone to develop this draft. However, the Association has met with and worked with NACO on several occasions as was agreed by all parties in March 2012. Darwin has preferred to deal with a very small selected handful of owners representing themselves rather than with the Owners' Association which represents 200+ owners. We do wonder why Darwin would choose to meet and possibly give preference to a very few selected owners rather than a single contact point - the Association - for getting feedback and input from 200+ owners.)

NACO has confirmed to us that it believes this licence to be the most advantageous licence for caravan owners in the industry. We are proud to have received this accolade from this important industry body.

(Once the licence has been finished and agreed with the owners, then this will truly be an accolade. In fact NACO will then want to use the licence throughout the UK. Many of the changes in the draft Darwin licence are those amendments agreed by the Owners' Association with Swanage Town Council before the sale of the park in 2009, and therefore passed to Darwin as successor in title and agreed again by Darwin in 2011. For this, the Association has already received a Certificate of Congratulations from NACO, as you already know.)

For the 2012/13 season we will offer this licence to all customers who wish to take advantage of the benefits it offers, and those who wish to can remain on their existing STC licence.

(The "existing STC licence" is, of course, the amended STC licence as agreed with STC in 2008 and 2009, with some other changes already agreed and implemented by Darwin.)

For any owner who would like to have the new licence explained to them then please do speak to the park team.

(This may be a problem as the park manager has said he has not read OFT 734, and he supervises the park team.)

Until the draft licence is amended along the lines of a note which NACO have sent to them, this Darwin draft licence will not be a viable legal document. There are a number of errors in it which means that no solicitor would recommend that it be signed as posted on the Darwin website. Fix this and include the points from NACO's note and we can be ready to recommend it to the members. The changes needed to make the draft licence fair have now been sent by NACO to Darwin. We are that close to agreement; all we needed was to be able to sit down round the table and finalise it!

£150 Site fee credit.

I read with interest what was said about the suggested refund. The facts are that I had a private meeting with Rosemary Burbridge in the Spring at which, amongst other matters, I was asked by her if I would make a one off concession of £150 against the current year's site fee, for the fact that over the years, going back to STC ownership days, a number of amenities at the park had been unavailable.

(These are not the facts. In order to avoid any misunderstanding, according to Rosemary it was Anthony who offered the £150. Ro was just seeking a refund on the grounds of the current economic climate, and services and facilities paid for but not received. This had already been detailed by the Owners' Association in a letter to Anthony sent in November 2011 where the refund of £150 was set out quite clearly as part of a suggested £350 refund in total. Anthony Esse does not mention this letter here. You already have a copy of this 21 November 2011 letter.)

I thought that this was an excellent suggestion and she was extremely grateful. There were some minor conditions attached (for example, to whom this would apply). How this became a "bargaining" tool by certain members of the Association against a reduction in core fee, I do not understand.

(We have never argued that the Core Fee should be reduced by £150, only that the refund could be applied to the 2012/13 invoice. The only figure on the invoice to deduct the £150 from was in fact the core fee, and was just included as an illustration.)

I will, however, leave you to draw your own conclusions.

(It is a little difficult for owners to do this as Darwin only show the Darwin emails and letters on the Darwin website and not all the Owners' Association ones, so there is no balance. In order to see the full picture, owners need to look on the www.bayviewowners.co.uk/ website where ALL the exchange of letters is shown. It is easy to mislead people by not providing both sides of the story.)

This £150 credit will be applied to the 2012/13 site fees for current customers who owned their caravans prior to Darwin's purchase of the Park in October 2009, as it was these customers who had experienced a loss of historical services and facilities.

(We refer you to the note we sent to you on 23 October, in which we indicated:

“Anthony does not say how the £150 will be returned to us, but with his promise, you can now settle up the fees for 2012/13 if you wish. If you have only paid last year’s fee of £3,064.69 so far, then the balance of fees to pay for 2012/13 would be £165.49. (See our gesture of good will note to you of 24 September.) There is no indication of how the £150 will be refunded, so you may choose to settle by paying £15.49, being the difference between £165.49 and £150. This is of course your choice, as we do not tell you what to pay. If you have already paid, then you have cleared your fees for 2012/13, and do not have to pay any more fees for 2012/13. Such people can now expect a refund of £150 to appear on their statements, we assume.”

Regarding those with a Darwin licence, you will see from our reply to Anthony of 31 October, that we are sure he will also wish to compensate those who have had the Darwin licence since October 2009. It is arguable that they are also entitled to some refund as they bought caravans when the facilities advertised were not actually available.)

Committee letter of October 4th

I am aware that a copy of this letter has been published on an open website. One of the principal reasons for our withdrawal of recognition of the Committee is the ongoing publication of inaccurate information.

(This is preposterous, and a completely invalid reason, as we have told Darwin. It contradicts Darwin’s’ lawyer’s recognition of the Association in 2010 as we have shown above under Recognition.

The Association has never published inaccurate information, only corrected Darwin’s misinformation and comments that Darwin do not agree with. A difference of opinion is not the same as inaccurate information.)

I do not plan to reply to the Committee but will yet again correct the inaccuracies in this letter:

(Looking at the argument put forward by Anthony below, and the examples used, he makes no corrections whatsoever.)

Point 1 : “The Committee has never told any owner what fee to pay; rather it has merely suggested that owners would be within their rights to pay the figure for 2011/12 fees, as we had not agreed the fees for 2012/13 pending the refund for services and facilities paid for but not received. We have never advised our members to deduct the £150 from their bills, but that in the end it is a matter for each individual”.

However this contradicts the BVCO newsletter 52 - August 2012 where in paragraph two the OA states:

“we will continue to pay last year’s fees....”

(This extract does not contradict Point 1. It was agreed with Victoria Brannan that if the fees for any given year were not agreed, then the previous year fees should be paid. There are 4 Darwin letters saying this.

In paragraph three it states:

“So our advice in the absence of the refund, is to pay the second half of last years fees on September 1st, if paying by instalments. This is £1532.35.....”

(This is absolutely correct. Again, this does not tell owners what to pay, it just advises; the clue is in the use of the word "advice". This also does not tell them not to pay £150, it relates to the difference between the 2011/12 fee and the 2012/13 fee which is £165. We had hoped that Darwin could see the difference between a figure of £150 and one of £165.)

In the sixth paragraph it states:

"We are concerned that you appear to have been seriously misled and ill-advised about the £150 refund. Consequently the statement you make in your letter is wrong. This is a one-off refund, and does not in any way affect future core fees"

(How much clearer can we be? We have advised members it is a one-off refund, but he does not put this in his letter.)

However, in a letter from the Committee to me dated 26th March this year, in the second paragraph it stated:

".....the £150 will be deducted from the agreed core fee of £2691.82 to give £2541.82....."

(Yes, the invoice from Darwin comprises only the core fee so the refund would have to be taken off this figure. We have never suggested that the core fee should be rewritten for subsequent years by deducting £150, this would amount to "double recovery" and we know how we feel about that! Even when we make it clearer for Anthony Esse to understand, it seems that he prefers to go back to the original notes that caused him his initial misunderstanding. We have always published the whole train of correspondence on our website even when his notes were incorrect or disagreed with ours. We have taken the view that our members are adults and can make up their own minds when they see both sides of the correspondence which they can only do via www.bayviewowners.co.uk/ . None of the above makes any case of inaccurate comments by the Association. In fact it just reinforces the fact that everything we publish is correct and accurate.

Organising meetings

It is a sad state of affairs that the Committee only pressed us for a meeting after four months, having received a number of invitations from us to sort out the licence.

(The Association has received no invitations from Darwin for any meetings, only enquires as to when we can meet. The Owners' Association had been meeting and working with NACO as had been agreed with Darwin and NACO in our meeting together in March 2012.)

To our amazement, it then offered a meeting date giving us four working day's notice and asked for this meeting to be held off site on the first Monday of the school summer holidays, the busiest week of the season where we are operating at full capacity.

(We would have been happy to receive a revised suggestion for a meeting date but Darwin never gave one. Our next suggestions were offered with plenty of notice, and again refused by Darwin.

In all we offered 5 dates to meet but Darwin rejected all of them. We do not understand the reference to the school holidays, as we only wanted one man to meet us for 2/3 hours.

By and large, we have excellent relationships with our customers across our portfolio and we see absolutely no reason why this should not be the case at SBV.

(We have contact with Owners' Associations on other Darwin parks where some of the tactics being used by Darwin are proving very unpopular with owners! We certainly do not want that to be the case at SBV. Indeed, we understand that on at least one park, Woodside Beach, Darwin have served eviction notices on the owners to leave within a few months or so, when their licence actually allows them to stay for several more years. We are told that Darwin are also making difficulties for owners on another park, Summer Lodge in Cornwall)..

We have a committed and highly skilled management team *(we welcome the opportunity of working together with it)* and it has been gratifying to receive numerous letters this year commenting on improvements we have made.

(It is very welcome that the Gym has been reopened, the wi-fi restored, the bins put back around the site and the grass is now cut more frequently.

We also have received many letters from caravan owners thanking us for protecting their interests and asking us to continue all the good work we are doing in preventing any abuse of power by Darwin ie. by providing correct advice based on OFT 734 etc.)

There is an open door policy with the team at SBV and any individual issues that you may have should be discussed with the team.

(This comment gives no permission to discuss park-wide issues, and isolates individuals on a divide and conquer basis just to individual complaints.

The aims of the OA are to work with management to improve the park for both owners and Darwin. We are there to represent individuals' issues and to work with management on park-wide issues such as the licence, plans to alter or improve the park, and the annual discussion on fees. To us the door has been closed for months, even before the final rejection in September/October.

Anthony has said will not adopt past bad practices (but then does) but only good practice, and that he will comply with OFT 734. We expect him to honour this, as his agreement to the refund of £150 has shown that he can keep his promise).

Yours sincerely

Anthony Esse
Director

The above comments in red are the Associations' in response to Anthony Esse's letter of 16 October, in black, so that the full story is made available for all to see.

We have also sent him a reply to his letter of 16 October, which has been emailed/posted to you and is on our website www.bayviewowners.co.uk/, as is this note.

Bay View Caravan Owners' Association

Cc NACO, DTS, OFT