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Attn. The Members of the Planning Committee
cc Melissa Tyler

By email Melissa.Tyler@north-herts.gov.uk and Members

Our ref: PT/RB/HIL3/1

Your ref: 20/00744/OP

Email: ptaylor@richardbuxton.co.uk; rbuxton@richardbuxton.co.uk

8 April 2021

URGENT

FOR CONSIDERATION BEFORE 12 APRIL 2021 COMMITTEE MEETING

Dear Sirs

Land opposite Heath Farm, Briary Lane, Royston, Hertfordshire: Outline Planning Application for up to 99 dwellings

1. We have been instructed on behalf of Royston Says No To Gladman, a local community group. The planning committee will be considering the above application on 12 April 2021. Having reviewed the Officer's Report ("OR") for the committee, we have written to the Planning Officer to raise a number of concerns which would call into question the lawfulness of any decision to approve the application.
2. A copy of that letter is attached for your information, but in summary the issues we have identified are as set out below. We trust this letter will assist you when reviewing the application and the way forward. In our opinion planning permission cannot be lawfully granted as matters stand.
3. Besides all kinds of concerns about the proposed development for reasons made in representations by our clients and others to the Council, we see the key legal issues as follows:

a) Access

Partners: Richard Buxton* MA (Cantab) MES (Yale), Lisa Foster Juris D MSc (UEA) MA (York), Simon Kelly BA MSt (Oxon), Paul Taylor BA (Oxon)
Solicitors: Hannah Brown MA (Cantab), Matthew McFeeley BSc MPP Juris D, Ricardo Gama MMathPhil (Oxon), Lucy Cooter BA (Hons),
Sarah Knox-Brown MA (Hons)

Consultants: Paul Stookes* PhD MSc LLB; Solicitor and Practice Manager: Caroline Chilvers BA (Hons)

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Access is not a reserved matter and very significant concerns have been raised about the deliverability of the access – including in relation to doubts about ownership of some of the land needed to provide access. Access is an absolutely key issue for this development. There is no explanation by the applicant of how these issues will be addressed and there appears to have been no adequate consideration of these issues by the Planning Officer. It is not even known whether the concerns raised have been communicated with Hertfordshire County Council. Again, this is the sort of issue that would and should have been fully explored as part of the EIA process.

b) Environmental Impact assessment

The Planning Officer has wrongly concluded that the development does not fall within the scope of the EIA regulations (despite this being agreed by the applicant and despite an EIA screening opinion having been obtained in relation to the earlier 2018 Application). There are good reasons for concluding that this is likely to be EIA development in which case the public is entitled to the information that it would set out and the planning committee thus assisted for making its decision. The officer has erred in law not just opinion about this. In any event there should have been a further screening opinion.

c) The tilted balance

This is a case where NHDC is unable to demonstrate a five-year housing supply. However, the tilted balance does not necessarily apply if an adverse impact on the SSSI can be demonstrated in this case. An adverse impact on the SSSI could provide a clear reason for refusing the development under NPPF 11, notwithstanding the housing supply shortage.

d) Assessing the Impact on the SSSI

In light of the test referred to above, the impact on the SSSI must be assessed with care. Yet the OR:

- contains a misunderstanding of the views of Natural England (especially regarding appropriate mitigation for the harm caused by additional recreation on the SSSI);
- fails to take into account the views of the ecologists;
- fails to take into account the recommendations in respect of air quality;
- fails to consider the environmental impact of the proposed use of the bridleway adjacent to the SSSI for drainage; and.
- overestimates the extent to which a refusal to grant permission based upon the landscape impact on the SSSI would be vulnerable on appeal.

These are examples of issues where EIA would assist the decision-making process.

4. We trust that the points that we have raised will be of assistance.

Yours faithfully

A handwritten signature in black ink that reads "Richard Buxton Solicitors". The script is cursive and fluid.

Richard Buxton Solicitors
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