

BY EMAIL ONLY

FAO Ms Holly Jones - Head of TBC Planning
cc Mr Matt Barker - Planning Policy Officer
cc Ms Sara Freckleton - Borough Solicitor
cc Cllr Ron Allen,
cc Cllr Robert Bird,
cc Cllr Gillian Blackwell,
cc Cllr Derek Davies,
cc Cllr Mike Dean,
cc Cllr Bob East,
cc Cllr John Evetts,
cc Cllr David Foyle,
cc Cllr Melanie Gore,
cc Cllr Julie Greening,
cc Cllr Anna Hollaway,
cc Cllr Elaine MacTiernan,
cc Cllr Jim Mason,
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Our ref. AB/LEGLAG
Your ref. 14/00838/FUL
Date. 28 September 2015

Tewksbury Borough Council

Dear Madam,

Application by Redrow Homes Limited, for planning permission for 369 dwellings and associated infrastructure on Land to the West of Farm Lane, Shurdington. LPA Ref. 14/00838/FUL.

I am instructed by the Leckhampton Green Land Action Group (“LEGLAG”) under the terms of the Bar’s Public Access Scheme in relation to the above matter. Please note however that the address at the foot of this notepaper is not an address at which service will be accepted.

My Client and I have reviewed a report prepared by officers which recommends the Committee grant planning permission for the above application. I am instructed that the decision is to be made on 29 September 2015.

We are deeply troubled by the treatment of a material consideration within that report, namely prematurity. The issue is dealt with at pp.311-312, however it is not until further down the page under the heading “other matters” is the plain conflict between a matter under examination and the grant of planning permission revealed. At paragraph 19.3 it is explained that before the JCS Examination-in-Public is an application to designate a portion of the strategic site, within the red-line of this planning application, an area of land as a Local Green Space pursuant to paragraphs 76-77 NPPF. The Report continues, correctly, to observe that the PPG advises that designation of a LGS will not be appropriate where planning permission has already been granted. However, inexplicably, goes on to



resolve that notwithstanding the obvious prejudice granting planning permission would present for the promoters of the LGS at the EiP, such a conflict would not be premature.

We are of the view that opinion is flawed, and the following advice at paragraph 19.4 amounts to a serious misdirection to the Committee:

“Whilst not specifically referred, it is reasonable to expect that a LGS designation allocation would also rarely be appropriate for an existing residential site allocation”

That advice is plainly wrong because it firstly assumes there is a presumption the site allocation will be found sound,¹ and secondly it forgets the LGS designation is before the same Inspector as the site allocation for resolution as one in the same issue. It is an entirely different to a situation where a site benefits from planning permission. The failure to explain the correct approach to prematurity in respect of the LGS issue to the Committee is fatal if left uncorrected.²

As such, we request the Committee is provided with a correct direction as to prematurity, in particular, the harm that will arise to the promoters of the LGS status if planning permission were to be garneted ahead of the JCS Inspector determining this issue.

My Client reserves their position generally.

Yours faithfully,

Ashley Bowes

Barrister

Cc. Head of Planning, Members of the Planning Committee by email only.

¹ Contrary to the very clear direction of the Court of Appeal in Persimmon Homes v Blyth Valley BC [2008] EWCA Civ. 861 per Keene LJ at [40].

² R v Selby District Council ex parte Oxton Farms [1997] EG 60