

FOA: Lynn Parker
Shropshire Council
The Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND
By email only:

Date: 4 December 2024

Dear Sirs

Application Reference: 24/02108/OUT (“the Application”)

Proposal: Outline application to include access for a mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage (“the proposed Development”)

At: Land At Patshull Road, Albrighton, Shropshire (“the Site”)

We are instructed on behalf of Boningale Homes Limited (“Boningale/ Client”) in connection with the above matter and to particularly advise in relation to your recent on-going correspondence with Ms. Megan Wilson of Marrons Planning concerning the above mentioned Application.

We write specifically to provide a response to an objection on behalf of the Albrighton Action Village Group (“AVAG”) prepared and submitted by Irwin Mitchell LLP dated 28 August 2024. This response is being provided at this particular time due to the currently on-going correspondence between Ms. Wilson and yourselves in connection with proposals to consider the Application at planning committee in the near future.

As to that, we note that Ms. Wilson seeks a response from yourselves as to the proposed scheduled date of 17 December 2024 to determine the Application being unrealistic and unfair given that a formal extension of time for determination has been agreed with your authority until 10 January 2025 and also due to the fact of on-going consultation responses are being actively addressed by our client. Additionally, we are advised that the Council have failed in their statutory duty to adequately consult in respect of key application submissions, namely the Arboricultural Assessment and the Economics Benefits Assessment. These are both a crucial part of the proposed Development and

will clearly be material considerations that will have to inform any decision made on the Application. I am obliged to highlight that a failure to follow due and proper process with these consultations and any identified failings in respect of them and a determination of the Application prior to such consultation having run its course, jeopardises any decision made by the Council and exposes any decision to the risk of appeal proceedings attendant with costs implications and/ or potential legal challenge subject to the manner in which a relevant pre-determined decision is made, which we hope will not be the case.

That will be the subject of separate correspondence with Marrons but is an issue that is very much under review should determination of the Application be prejudiced by not allowing sufficient time until the agreed extension date in addressing the Application at Committee.

In terms of the response being provided to AVAG and to their solicitor's letter dated 28 August 2024, Boningale and its consultant team were anxious to ensure that all matters raised were considered and addressed robustly, given the threat that the letter makes of potentially pursuing a judicial review process should a decision be made on the Application that was subject to a justifiable error. To ensure that any response provided was well considered and had taken into account the matters raised in that letter, we instructed Leading Counsel (Christopher Young KC of No5 Chambers) to review the AVAG objection letter and provide us with his view as to the points raised and specifically in light of the points alluded to in the letter about unlawfulness if a decision was made to grant the Application.

As the Council will be well aware, further and significant developments have also taken place in terms of the progress and examination of the emerging Shropshire Local Plan. That Plan, as the Council are aware, is now in abeyance pending a decision of the Inspectors appointed to test it through the examination process. The interim letter from the Inspectors has called off the further hearing sessions that were scheduled for the remainder of November and December after the sessions that took place on Matters 1, 2 and 3 of the said Local Plan. While a further letter is awaited (expected to be issued imminently), it appears highly likely that the emerging Plan cannot be found sound in its present form. Therefore, that is a material consideration the advisors of AVAG would need to take into account in any further consideration of their client's case, which does seem predicated principally on the current policy framework for Shropshire being robust and defensible, which we would strongly refute in any case but particularly given the current developments with the Local Plan examination as briefly touched upon above.

In addition to this, we believe that the objection made on behalf of AVAG lacks substance on the points it raises and Leading Counsel's Opinion is the same. Accordingly, please find attached a copy of the Opinion which we share with consent for consideration by the Council, its planning Committee and to be made public as required to inform the public about the objections raised by AVAG. You will see from the Opinion that it very thoroughly analyses the various aspects of the objections raised by focusing on pertinent legal points raised and concludes very determinatively that there can be no reasonable

prospect of a judicial review being justified were the Council to make a decision to grant planning permission in this instance. In fact, to the contrary, Leading Counsel highlights the significant benefits the proposed Development will deliver if it were to come forward and also how this provides its justification in terms of meeting the threshold of the “very special circumstances (VSC)” test in considering whether it merits development in the Green Belt.

We trust this letter and the attached Opinion is helpful in providing a response to the Irwin Mitchell letter raising legal points against the Application and also assists the Council in due course at Committee to demonstrate that in the Applicant’s view, endorsed by a formal Opinion from Leading Counsel, the prospect of a successful judicial review by AVAG being sustained on the points that they have raised in their objection letter is not justified.

If there are any queries please do not hesitate to contact Shruti Trivedi of this office.

Yours sincerely



Shruti Trivedi

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Legal