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Our Ref: CES/1539.9
Your Ref:
Date: 07 March 2019
Email: chrisschofield@schofieldsweeney.co.uk
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BY EMAIL & POST: Edward.Norfolk@bradford.gov.uk

Dear Mr Norfolk

Application Number 17/04591/MAF

Demolition of steel framed agricultural building, agricultural shed and the residential development of 133 dwellings with associated infrastructure, works and access: Land at Bingley Road, Menston and Menston parish Council ('MPC')

I represent MPC in this matter who have asked me to write to BMDC in its capacity as the Lead Local Flood Authority ('LLFA') in respect of the above application.

MPC understand that the LLFA has indicated that it has no objection to the proposed development the subject of the application.

MPC have asked me to convey their surprise and concern at the LLFA's position on this application given the previous planning history of this site with which of course you are very familiar.

At this point it is helpful to set out a brief narrative of events as MPC understands them:

- 21st August 2018 Arup (acting for BMDC) reported that 'groundwater emergence occurs in the area ... and does so due to the high groundwater table in the underlying bedrock aquifer' and reported that 'we believe specific plots within the development site may be at risk of flooding'.
- 26th October 2018 Arup submit an advisory note to BMDC (to you and your colleague Stewart Currie) the conclusion of which was that the application should not be supported because '... the applicant has not demonstrated that the development will be effective at mitigating against potential groundwater flooding' and 'the applicant has not demonstrated that the development will not increase the risk of flooding' and that [Arup] have concerns about the potential increase in flood risk in Meadowcroft and beyond'.
- 13th December 2018 there was meeting between BMDC and the applicant at Bellway Homes.
- 20th December 2018 meeting between Arup and Envireau Water (acting for the applicant).

- 18th January Arup submit a further advisory note to BMDC the conclusion of which was that ‘... based upon on the data presented by Envireau Water ... it is concluded that whilst the site is prone to seasonal flooding , the origin of the flooding is unlikely to be caused by seasonal groundwater rise in the underlying aquifer and rather from surface water runoff” and that ‘... based on the hydrogeology data presented [by Envireau Water to Arup], groundwater flooding is a low risk and not a reason to decline the application ...’.

MPC are keen, given the history of the site, to understand from you the circumstances in which Arup could between 26th October 2018 and 18th January 2019 have so wildly changed their position on the flood risk to the site. Further MPC are keen to understand what steps you and the LLFA generally took to challenge the conclusions reached by Envireau Water and in turn Arup. I would be obliged if you would provide a detailed response either to me or direct to MPC at your earliest convenience.

MPC are also keen to understand the content of the meeting between the applicant and BMDC held on the 13th December 2018 at Bellway Homes and have asked me to request from you details of who attended that meeting and the minutes of the meeting.

MPC have asked me to make the following points and I should be obliged if you would take account of these issues when you provide your response:

- Sirius in a report dated February 2009 and contained in their new report dated July 2017 stated that ‘groundwater levels across the whole of the [development site] have been less than 1m below ground level [for the whole of the 3 month testing period];
- Dr Duncan Reed (an acknowledged expert in the field) in a report jointly commissioned by BMDC and MAG (and prepared under the supervision of BMDC’s legal department) concluded that there was ‘a fundamental problem with upslope expansion of Menston village to the South [because of groundwater flooding]’;
- Sirius in a report dated July 2017 referred to a ‘...number of locations [on the site] in which springs possibly seasonal exist ...’;
- The latest Environment Agency’s groundwater flooding map demonstrates that there is a high probability of groundwater emergence on the site;
- Arup made it clear in its January 2018 note that it had in reaching its conclusion considered only the following: (1) Envireau Water technical note 19th November 2018, (2) the outcome of the meeting between BMDC and the applicant on 13th December 2018; (3) review of groundwater level data for the period 11/10/2018 to 13/12/2018 (3) the outcome of the meeting between Arup and Envireau Water on 20th December 2018; (4) updated groundwater level data 13/12/2018 to 20/12/2018; (5) a review of Eastwood & Partners technical note dated 20 December 2018 and (6) telephone calls between Arup and Eastwood & Partners on 14 and 15 January 2019;
- Arup commented in its report dated 21st August 2018 that ‘No monitoring data is available to assess seasonal variation particularly of the peak winter groundwater level’;
- The data from Envireau Water is obviously anomalous; water levels in winter are recorded as lower than for summer 2018 (one of the driest on record) and this data was omitted

from assessment by Arup. In any event the measurements used were taken from boreholes on the wrong part of the site;

- The thickness of unsaturated zone prepared by Envireau Water which is replicated in Arup's technical note dated 18th January 2019 is conjectured only and not supported by actual monitoring information and is certainly discredited by the photographic evidence set out in JBA's report of August 2017.

An objection to the planning application from Jon Lawrence (of CODA adviser to Chartford Homes) was lodged with BMDC on 2nd February. In his objection Mr Lawrence refers to overland flows across the Chartford Homes site being massively increased. Mr Lawrence is intimately familiar with the flooding issues which affect the site and the area downstream of the site (Moor View Close/Chartford Homes site). This objection appears to have been ignored. Would you explain why that was the case please. You should also know that it was obvious to me that the owners of houses built downstream of the site (who attended MPC's meeting on 28 February 2019) are extremely concerned as to the risk of flooding to their properties and the consequent impact of the marketability of those properties.

Regarding the Chartford Homes site, I understand that at the R&A Committee meeting on the 7th February that despite requests from a member of the R&A you refused to be drawn as to your knowledge of the flooding issues previously considered at that site and the drainage scheme that was designed for that site. The plans for that drainage scheme were of course submitted to you/BMDC. To avoid any unnecessary further difficulties in this regard would you please now confirm that you and BMDC are aware of those issues and the drainage scheme deployed to alleviate groundwater flooding issues.

BMDC and you are aware that there is a wealth of additional information relating to the risk of groundwater flooding on the proposed development site and this information was not provided to Arup and appears to have been (deliberately) ignored. You will no doubt recall that it is part of BMDC's published Flood Risk Strategy (Section 8.1) that BMDC will 'utilize flood risk information from all available resources'. The FWMA 2010 s 9(1) imposes an obligation upon BMDC to apply its Flood Risk Strategy. MPC have requested that I ask you/BMDC for a detailed written explanation of why this information was not considered by Arup, you or the LLFA in coming to the decision not to raise an objection to the development?

It is MPC's present view that Arup's conclusions should have been the subject of challenge by the LLFA and were not; in breach of the LLFA's statutory duties. MPC have requested that I also ask you for a detailed written explanation of why no such challenge was forthcoming from the LLFA?

MPC have asked me to make it clear that they are anxious to avoid any unnecessary legal proceedings and according have instructed me to urge you to provide comprehensive answers to the questions posed and requests for information above. I should say that there is genuine concern from MPC and Menston residents as to how this matter has progressed generally. A failure to deal with the issues raised by and requests made in this letter is likely to further aggravate matters and provoke legal proceedings (in which regard MPC reserves its position).

In the meantime MPC have also asked me to seek an assurance from you/BMDC that no development will take place on the site until the issues raised in this letter have been comprehensively addressed.

I await hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read "Chris Schofield". The signature is fluid and cursive, with the first name "Chris" written in a larger, more prominent script than the surname "Schofield".

Chris Schofield

Copies to: Councillor Philip Davies MP – by email
Liz Hopper – by post