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Our Ref: CES/1539.9
Your Ref:
Date: 16 April 2019
Email: chrisschofield@schofieldsweeney.co.uk
Direct: 0113 220 6270

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')

Thank you for your email dated 27th March and your letter dated 29th March on which I have now been able to take instructions.

Regarding the question of the application being called in my letter did not touch upon this I am in correspondence with Philip Davies MP who has told me that the matter remains with the Secretary of State; but thank you for your update nonetheless.

Regarding the balance of your letter I would comment as follows and pose the following further questions:

- In my letter dated 7th March I asked you to:
 - explain the circumstances in which Arup had reversed their position on flood risk on the site;
 - what challenge the LLFA posed to Arup's revised conclusion;
 - explain the matters discussed at the meeting held between BMDC and Bellway on 13th December 2018;
 - asked you to confirm your own knowledge of the flooding issues previously considered by the LLFA in respect of the Chartford Homes site and the drainage scheme that was designed and installed at that site (you will recall that you had refused to be drawn on the subject at the R&A committee when questioned on the subject);
 - an assurance that no development would commence at the site until the matters set out above had been addressed.

I do not wish to appear unfriendly but your letter simply does not deal with these points and indeed you have gone to some lengths to avoid dealing with them. None of the questions raised are unreasonable (e.g. your knowledge of the Chartford site is a matter of public record). I have told you previously that my client does wish to engage constructively with BMDC/the LLFA but frankly the artful evasiveness adopted by you in your letter falls far short of what is required to achieve a constructive dialogue.

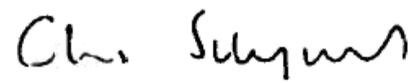
- You will appreciate that Arup's advice weighed heavily on the R&A Committee's decision (indeed it was conclusive);
- Your letter provided a review of Arup's commission. You say that their commission was 'to review all documents deemed necessary with respect to the developments (sic) proposals for flood mitigation'. Will you detail please detail what documents were deemed necessary for review. Arup are quite clear in their report dated 18th January what documents and meetings they had considered and there is no reference in their report to Dr Reed's report, the 2009 Sirius report or the Environment Agency's groundwater flooding map. You will of course recall that the LLFA's published strategy is to use all sources of information to mitigate flood risk;
- Will you also please explain why the terms of Arup's commission were as they were given that BMDC are in possession of advice from Dr Duncan Reed (which BMDC commissioned) whose conclusions were that the site was unsuitable for development because of flooding;
- It is clear from your email on 27th March that you were in fact unaware of what documents/expert advice had been reviewed by Arup at the time of the R&A committee. It is also clear from your email and your letter that the LLFA wrongly and unlawfully delegated their duties and responsibilities to an expert who is likely for commercial reasons likely to be 'developer friendly'. You will note that Arup's report was expressed to be merely 'advisory'. It is also obvious from your letter that those conclusions were accepted without any challenge from the LLFA.

Generally, my client is concerned at the process adopted by the LLFA. It seems on the face of it that the LLFA have wrongly delegated responsibility to Arup and have wrongly failed to provide appropriate challenge to Arup's findings. BMDC had previously been advised, in a report it commissioned from Dr Reed, that the site was unsuitable for development because of flooding. It is also the case that Arup reversed their advice after a meeting between BMDC and Bellway; the minutes of which meeting have not been provided despite a request to do so.

My client is concerned about the process adopted by BMDC, the LLFA, Bellway and Arup. There has been a breach of statutory duty and the development does pose a real risk of flooding in houses downstream of the site which is capable of causing substantial damage and/or make valuable properties unmarketable. For the moment there is an opportunity for you to provide a comprehensive answer to my earlier letter and to join in a process under which Arup's revised advice is appropriately scrutinised and challenged. A failure to do so will lead to my client drawing its own conclusions and seeking to take such action as it deems necessary. Any such action is likely to result in legal proceedings which will involve BMDC, the LLFA and as appropriate its officers.

I await hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "Chris Schofield". The signature is written in a cursive, slightly slanted style.

Chris Schofield

Copies to: Mr P Davies MP – by email
Liz Hopper – by email