

Beth McAdams

From: Emma Hargreaves [REDACTED]
Sent: 04 February 2025 20:33
To: Emma Hargreaves
Subject: FW: APPEALS 3333923 & 3334094 by HODSON DEVELOPMENTS COMPANIES - Land at Chilmington Green, Ashford Road, Great Chart, Ashford [PM-AC.FID5944260]

Importance: High

From: Jeremy Baker [REDACTED]
Sent: 18 December 2024 23:04
To: Skinner, Helen <[REDACTED]>

Subject: [EXTERNAL] RE: APPEALS 3333923 & 3334094 by HODSON DEVELOPMENTS COMPANIES - Land at Chilmington Green, Ashford Road, Great Chart, Ashford
Importance: High

Dear Helen,

Many thanks for distributing the invitation and Inspector's Agenda for tomorrow morning's Case Management Conference.

However, late this afternoon we both received the below email from the Appellants' solicitors. This raises new issues, outside tomorrow's Agenda, which have been in their contemplation ever since 22 November, although it has taken the Appellants until today to advise the Inspector and the parties that their own target of providing updated detailed supporting documentation by last Monday has gone by the board.

The Appellants' latest suggestion, of providing a new updated Education Statement by 23 December and a new updated Viability Statement by 10 January, is seriously prejudicial to the Council in preparing for this Inquiry, and we strongly object to these latest suggested targets. 23 December is the last full working day before the Christmas and New Year break, and thus has a slight appearance of being more helpful than it actually is, in terms of enabling the Education Statement to be considered when received. And 10 January is a Friday and is only 7 working days before Proofs of Evidence are required, on Tuesday 21 January. Both dates, and most especially 10 January, are far too late for the production of new detailed documentation which should have been provided much earlier in the course of these applications and Appeals, to enable proper consideration and response.

Moreover, given that the Appellants have not yet been able to complete their own assessment of the Possingham Appeal decision in favour of their sister company, published nearly 4 weeks ago, and that also there is no indication of an end to the difficulties that seem to result in missing their own targets for documentation, we have very little confidence that their revised suggested dates will be met, even if they were otherwise fair and acceptable which they are not.

It is wholly unclear what the Appellants mean by not intending to circulate "a full TIA" to support their argument that their obligations to pay for the dualling of the A28 should be removed from the s.106 Agreement. This strongly implies that something less than a 'full' TIA may be produced as part of the Appellants' proposed response to the LPAs' Statements of Case. The Appellants' proposed production of responses to the LPAs' Statements of Case is an additional step, outside the current Appeals timetable, which appears to be the Appellants' intended means of making a range of changes to the applications the

subject of the Appeals. The making of such changes on Friday 10 January (even if that date were to be achieved) is far too late and would be highly prejudicial and deeply unfair to this Council and other parties.

I am instructed to make clear that this Council most strongly objects to such changes being made. We, and the County LPA, have provided our Statements of Case, and comprehensive public and stakeholder consultation has been carried out (and concludes tonight), on the basis of the documentation provided by the Appellants in late October/early November setting out their latest case and the reasons for it. After all this has been done, the Appellants' proposed course of action set out below is wholly unacceptable within the current Appeals timetable and will cause severe prejudice to the LPAs, as well as generating a need for fresh public and stakeholder consultation.

It is now too late for the Appellants to seek to change – other than by simple withdrawals of some of their modification applications – the subject-matter of these Appeals, unless the Appeals timetable is redrawn to allow the Inspector to first determine whether any such changes fall within whatever scope may lawfully exist for such changes at such a late stage, and if so, the LPAs to have proper time to amend their Statements of Case and to prepare Proofs of Evidence to address the Appellants' revised case. This Council reserves the right to seek redress for all additional and/or wasted work which may be caused.

Please kindly pass this email to the Inspector before tomorrow's CMC.

Many thanks and kind regards,

Jeremy D.I. Baker

Principal Solicitor (Strategic Development) and Deputy Monitoring Officer

Legal and Democracy

ASHFORD BOROUGH COUNCIL

Telephone: 01233 330574 (Internal ext: 574) – **these numbers divert to remote working locations as necessary.**

From: Mark Harnett [REDACTED]

Sent: 18 December 2024 16:19

To: Skinner, Helen [REDACTED]

Subject: 3333923 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford [FLADG-IMAN_NR.FID1667945]

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Dear Helen,

I refer to my email of 15 November in which I advised that the Appellant would endeavour to provide an updated Viability Assessment, Transport Impact Assessment and Education Needs Assessment by 16th December, that being the date listed for the CMC at that time. In the event the CMC is now taking place tomorrow morning but I am writing to you (with a copy of the other parties to the appeal) to advise that the Appellant will not be able to provide this documentation in advance of the CMC.

As the Inspectorate is aware, there were several significant points at issue in the appeal that our client brought against the refusal of its application for 655 dwellings at the Possingham Farm site which is adjacent to the site with which these appeals are concerned. That appeal was allowed on 22 November. The Appellant is considering the implications of the evidence which was presented during that appeal and the various findings made by the appeal inspector. It is highly probable that the Appellant will need to seek to amend certain of the modifications which it is seeking in these appeals in the light of that decision. Unfortunately because of particularly acute time pressures which our client is experiencing at present, it has not been able to complete its assessment of the implications of the Possingham decision for these appeals.

I can confirm that the Appellant does intend to circulate an updated Viability Report and Education Statement. It no longer intends to submit a full TIA to support the argument that the obligations to pay for the dualling of the A28 should be removed from the section 106 agreement. The Appellant also intends to submit a response to the Statements of Case submitted by the other parties which will include a note of the changes which the Appellant is proposing to make to the application which is the subject of the appeals as well as those no longer being pursued. The Appellants anticipate being able to provide the Education Statement by 23 December and updated Viability Report and response to the Statements of Case by Friday 10 January.

The Appellant apologises to the Inspectorate and the other parties for the delay.

Best wishes

Mark Harnett
Partner
for Fladgate LLP



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