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BY E-MAIL

Dear Mrs Horley

Re: Application 12/00850/OUT (Extension of time limit of 09/00584/F – variation of Condition 8 of lapsed planning permission 04/02797/OUT relating to Land Between Birmingham/London Rail Line and Gavray Drive, Bicester).

Thank you for your letter of 11th July responding to mine of 5th.

Application 09/00584/F was expressly subject to the conditions on the parent permission in all other respects than Condition 8. Therefore, in accordance with Condition 3 of that parent permission, it lapsed on 12th July 2011. Consequently, application 12/00850/OUT is 'out of time' and cannot lawfully be determined.

Without prejudice to the above, and because you have recommended that I re-state my grounds for objection to any extension of time for this outline development scheme, I set out the inadequacies of the supporting material below. I make the point that it is only because your Council appears to be assisting the applicant with a 'below the radar' attempt to extend the entirety of 04/02797/OUT, not just the variation of Condition 8 of that permission, that there is any need for me to do so.

Lack of appropriate supporting information in accordance with EIA Directive

Despite this application providing the opportunity for the applicant to address the shortfalls in critical environmental information that form grounds of challenge in the current High Court proceedings, they have failed to do so. Consequently:

- 1) The Environmental Information submitted with the application can still only be read and understood by trawling through a piecemeal catalogue of various documents. Whilst this reflects the fact that new and significant environmental information has come to light in a piecemeal fashion since the original Environmental Statement was produced, I note that rather than address this with an updated Environmental Statement, the applicant has consistently elected to require decision makers and the public to conduct a 'paper chase'. In any event, the full suite of documentation still does not amount to an Environmental Statement that provides adequate cross-disciplinary coverage in order to assist decision making. This is an approach that has been found unlawful in other cases. Key elements of this paper trail appear (e.g. flood risk assessments) also appear to be missing from the on-line planning file for 12/00850/OUT.
- 2) The Environmental Information submitted with the application still fails to provide adequate detail on matters such as the presence of all five UK hairstreak butterflies, the value this conveys in regional and national terms and how this representation of the site's significant biodiversity value is intended to be protected.
- 3) The Environmental Information also, as with previous submissions, fails to provide necessary and important detail on the volumes and types of fill that will need to be imported to the site to raise ground levels, as well as on related and other construction traffic movements. This is despite this element of the development proposals

providing a trigger for EIA in its own right. These are not insignificant matters, and their omission can no longer be classed as mere oversight.

- 4) I would make the further point that events over the 2011/12 winter and into summer 2012 have drawn into serious question the adequacy of the land raising strategy for addressing issues of flood risk. For some months now, much of the south-eastern part of the site has been under varying depths of standing water. With reference to the land-raising contours indicated in the applicant's Design and Access Statement related to a previous application (but notably absent from the planning file for 12/00850/OUT), this is an area where no land-raising is proposed. Hence it is not at all clear how flooding will be prevented in this part of the site in the event that the development is built out as intended.
- 5) Finally, the supporting information provides no re-assessment of whether the 'need' for this development outweighs the significant environmental issues associated with its realisation, and in particular whether alternatives such as a reduced quantum of development on the eastern part of the site, would provide a more sustainable alternative in respect of matters such as biodiversity and flood risk.

For these reasons, I object to any extension of time for the outline permission being awarded under 12/00850/OUT without prejudice to my comments above about the lack of a lawful basis upon which this application has been made.

Finally, I note your comments about the screening opinion and agree that it is present under the core file 12/00850/OUT. However I draw your attention to the fact that it is not present under the specific screening opinion reference 12/00024/SO.

Yours sincerely



Dominic Woodfield MIEEM CEnv
Director

cc Olivia Euesden – Natural England
Charlotte Frizzell – Natural England
Michelle Kidd – Environment Agency
Becky Micklem – BBOWT
David Redhead – Butterfly Conservation
Nigel Bourne – Butterfly Conservation