**From:** **On Behalf Of** Calum Miller  
**Sent:** 05 October 2015 18:14  
**To:** Linda Griffiths  
**Cc:** Chair of Governors@Dr South's  
**Subject:** Fwd: Condition 19 - Section E

Dear Ms. Griffiths,

Further to my last message, I thought it might be helpful if I were to share with you this correspondence between our legal advisor - who is a governor of the School - and the legal representatives of Network Rail.

I do appreciate that there is a strong common desire to deal with this matter urgently and I equally appreciate that this is piling pressure from all quarters onto you. Nevertheless, I hope you will appreciate that our objective in raising concerns and ensuring that all relevant parties are aware of these is to avoid a rapid decision that may cost considerable time and resources in the medium-term when a slightly more considered and, we hope, consensual approach now might save those resources.

As ever, if it would be helpful to discuss any aspect of this, please don't hesitate to get in touch.

Yours sincerely,

Calum Miller

---------- Forwarded message ----------  
From: **Helen Mountfield** >  
Date: 5 October 2015 at 17:57  
Subject: Fwd: Condition 19 - Section E

Further to my helpful conversation a moment ago with Monica Peto,  I send this in my capacity as a governor of Dr South's VA primary school in Islip.  Dr South's is adjacent to the new Chiltern Line to London, and in the Cherwell District Council area.

I am, as Monica  suggested when we spoke, forwarding a long pre-action letter from the governing body of the school to Linda Griffiths at Cherwell District Council.  This concerns the intended discharge by CDC - possibly as early as today - of condition 19.

I hope the letter and its enclosures are self-explanatory, but in short, we are concerned that there has been an oversight and an omission properly to assess and consider De South's as a noise sensitive receptor, first by the Promoter and then by CDC, so that this has not yet been properly considered by the Promoter in accordance with its policy, compliance with which is a requirement of the condition.  In those circumstances, we consider that the condition cannot presently be lawfully discharged.   We understand however that at present Ms Griffiths is minded to discharge the condition using delegated powers.  We are very concerned that if the condition is discharged immediately and unconditionally without the noise mitigation measures we consider to be indicated by the Promoter's policy, this will be harmful to the learning environment of the school.

 We are concerned that the detailed reasoning in the 11-page letter, sent by the chair of governors yesterday evening, on the last day of an extended consultation period, has not yet received any proper legal consideration either by CDC or the Promoter.

We fear that unless there can be a sensible discussion of this before a decision is taken (and we appreciate that this is urgent), there will be no route for the governing body to protect the pupils' interests other than by recourse to judicial review.

We have no desire at all to spend unnecessary time or money on this, or to hold up the opening of the line, but we do not wish to lose the only opportunity to challenge this oversight and attendant adverse consequences.

As you will see from the letter, we recognise that is extremely undesirable that resolution of this issue has been left so late, but that there is no fault on the part of the governing body in this respect.

We copied our pre-action letter to the various members of the Promoter consortium, but do not know if they have yet had an opportunity to share it with you or to seek legal advice on it.

We would be very grateful if you could consider this and seek instructions from your client and other interested parties as appropriate at the earliest opportunity.

I have copied in the chair and vice-chair of governors.

Thank you again for your time and for taking a slightly unusual call late in the afternoon.

Kind regards,

Helen Mountfield QC