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10th February 2025

Planning Inspectorate
The Square
Temple Quay House
Bristol
BS1 6PN

Appeal ref no: APP/Z3825/W/24/3355997

Council ref no: DC/23/1909

Dear Mr Devereux

APPEAL BY PUNCH PARTNERSHIPS (PML) LIMITED

SITE ADDRESS: THE OWL, DORKING ROAD, KINGSFOLD, HORSHAM, WEST SUSSEX, RH12 3SA

APPELLANT'S FINAL COMMENTS ON APPLICATION FOR COSTS

As noted in its Application for an Award of Costs, the Appellant is aggrieved by the Council's conduct in its determination of the Application and as a result is requesting that the Inspector grants as a substantive award of costs. The Council's letter as a response to Appellant's costs application (the "**Council's Response**") does little to address the concerns raised by the Appellant, which we discuss herein.

The Council's Response claims that the Committee's decision was based on its collective assessment of the site context, local highway conditions, and relevant policy considerations, specifically Policies 40 and 41 of the HDPF.

Without rehearsing all of the arguments put forward as part of the Appeal, it is prudent to reaffirm that the proposal will not lead to any adverse nor unacceptable impact on the highway safety grounds.

The Council's Response puts forward the argument that the Manual for Streets (MfS) guidance is not applicable in the specific context of the Appeal Site, and conclude the decision is therefore informed by local knowledge and site-specific observations. It is not reasonable for the Council to pick and choose when a nationally recognised document, such as the MfS, is applied – if this approach were taken to all such documents then there would be no consistency in design across the District. The correct decision-making approach, in the view of the Appellant, is clearly to follow the advice and guidance available to the decision-maker; in this case the MfS (and indeed the advice from the Local Highway Authority) was the best and most objective / reliable source of information that Council had available to it, and to instead rely on the anecdotal evidence provided by Members represents a significant shortfall in the robustness of its decision-making. For this reason, the Council has made vague, generalised and inaccurate assertions about the development – contrary to nationally recognised guidance (the MfS) – and as a result have failed to substantiate the reason for refusal with reliable evidence.

Adding to this, the Committee Report confirms the "MfS is considered the appropriate guidance for this stretch of road, as the 85th percentile speeds are below 40mph in this location. Again, this is common practice in transport planning whereby this is the adopted guidance for 85th percentile speeds below 40mph." – so the Council was informed, by its expert advisors that the MfS was the correct document to use in the specific context of the site – quite contrary to the arguments put forward by the Council at appeal. The Council has provided no justification for the difference of opinion between its Officers and Members, save for suggesting that Members simply 'know better'.

The Appellant accepts that it is vital for Members to be able to arrive at different conclusions than their Officers – it is vital for local democracy and the robustness of decision-making – but in this instance empirical evidence to justify the difference in conclusion ought to be provided. The Council's Response states that it is not bound to follow Council Officer recommendations where reasonable planning grounds exist to justify a contrary decision. However, there is no such reasonable planning grounds justified nor evidenced. Members are bound by the same duties as Officers in reaching

decisions; to provide evidence and justify the reason for refusal and given they have chosen to ignore the guidance of their expert officers and failed to produce any reliable evidence to the contrary, the Council has failed in this key duty.

Crucially, the Appellant would emphasise that the Council's Statement of Case was shared with the Appellant on the 8th January 2025, postdating the aforementioned decision. However, no evidence to substantiate the reason for refusing the Application has been provided, and is littered with vague and inaccurate assertions about the proposal's impacted on highway safety, in so doing taking the binary opposite position that is published in its Committee Report, with no explanation as to how such a difference in opinion between Officers and the Committee was arrived, reaching to a wrongful decision. All of this serves to underscore our Application for an Award of Costs.

Conclusion

For the reasons set out above, the Council has made vague, generalised and inaccurate assertions about the impacts of the proposed development and in turn failed to substantiate the sole reason for refusing the Application with evidence; in so doing it has refused a planning application which clearly should have been permitted. For this reason, the Appellant reaffirms its request for an award of costs to be made against the Council.

If you have any queries, please do not hesitate to contact me directly on [redacted] or [redacted]

[redacted]

Jenna Lai MRTPI

Senior Planner

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Cc: Punch Partnerships (PML) Limited