## Subject:

Failure to Conduct Essential Dormouse Surveys for Proposed Smock Alley Development Poses Legal Risks

Dear Council Members,

Before I present my concerns, it is pertinent to note the credentials of Ian White, whose comments critically inform the issues at hand. Ian has served as the Dormouse Officer for the People's Trust for Endangered Species since 2006, coordinating the national dormouse training log with Natural England and Natural Resources Wales. He has developed a range of training resources for conducting dormouse conservation work, available on the PTES website. Ian also leads various training courses on dormouse conservation, mitigation, and habitat management and advises law enforcement and courts on matters concerning dormouse-related offences. His expertise underscores the validity of the criticisms laid out below.

I am compelled to express the glaring omissions in the ecological assessments conducted by Land Use Consultants (LUC) for the proposed Smock Alley development as highlighted by Ian White (see attached). The absence of specific dormouse surveys, despite longstanding communications with the planning department about the high likelihood of dormouse presence on the site, reflects serious non-compliance with UK wildlife protection laws and planning policies. This oversight could potentially expose Horsham District Council to significant legal challenges. Why is this application being pushed through without the relevant surveys? With reference to the comments added to the original document below.

## On Dormouse Surveys:

*This isn't strictly true. I would agree that dormouse surveys are designed to confirm presence or likely absence of dormice and while they are unable to give an estimate of population size, they can give an indication of it by looking at the number of nests or live dormice recorded relative to the number of tubes that are put up across the site...*

The refusal to conduct thorough surveys undermines the ability to assess impacts properly and design effective mitigation strategies, violating the guidelines set forth in the Conservation of Habitats and Species Regulations 2017.

## On Assumption of Dormouse Presence:

*This would suggest that a dormouse survey has previously been done at the site. As far as I am aware it has not and so your assumption of dormouse presence is based on dormice in the locality. This is not adequate information as to the status of dormice on-site.*

The assumption without verifiable evidence fails to meet the statutory requirement for a definitive survey, as required under the Wildlife and Countryside Act 1981.

## On Habitat Management Post-Development:

*There is a lot of detail here on the reduction in the amount of scrub removal but no apparent plan on how these habitats are to be maintained post-development.*

This lack of a management plan could result in a breach of the National Planning Policy Framework (NPPF) 2024, which mandates that development should not lead to a net loss of biodiversity and should enhance natural habitats.

## On Hedgerow Management:

*The hedgerows could be a key habitat area for dormice and without an ongoing management plan they will slowly degrade. What is the longer term plan for the hedgerows and how will they be managed in the future?*

Failure to protect and manage key natural features such as hedgerows may contravene local planning policies on maintaining wildlife corridors and landscape connectivity.

## On Conservation Status and Legal Compliance:

*How do you know that the measures outlined in this letter will be sufficient to maintain the favourable conservation status of the local population? If you don't know for certain whether dormice are present on-site before the works starts, how do you demonstrate that you have maintained or enhanced the population at the end of the works?*

This exposes the council to risks under the Habitat Regulations Assessment (HRA), which is designed to ensure that plans or projects do not adversely affect the integrity of protected sites and species.

## Council's Responsibilities and Potential Negligence:

Horsham District Council has a statutory duty to ensure that any planning decision it makes does not contravene environmental laws or policies designed to protect biodiversity and natural habitats. Approving this application without ensuring that all necessary ecological assessments have been properly conducted and verified may constitute negligence, especially given the potential violations of national conservation standards and local policies.

## Additional Concerns:

Visibility Splay and Hedgerow Protection: Despite repeatedly informing the planning officer of the high likelihood of dormice on the site, the 110m visibility splay and extensive hedgerow, both suitable habitats for dormice, have been neglected in the ecological assessment. This omission not only contravenes the UK's biodiversity conservation standards but also indicates a lack of due diligence in safeguarding protected species.

In light of these serious concerns, I urge the Council not to approve this damaging application until a comprehensive and legally compliant ecological assessment is carried out.

The current oversight by LUC and the advisory inputs from Place Services not only undermine ecological and legal standards but also put the Council at risk of facing legal repercussions for environmental negligence.

**Without a dormice survey conducted, there are no checks and balances to ensure that the applicant or builders, once the land is sold, will follow the correct procedures for dormice leaving no accountability for their actions.**

I appreciate your duty in consideration of this important matter.

[redacted] – Smock Alley Action Group.