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27 November 2025

Dear Sir

Heybeck Lane, Chidswell

Planning application 2020/92350

We are advising the Church Commissioners for England in respect of the above planning application. The following is provided in response to Ms Byrd's opinion dated 11 November 2025, which itself responds to changes to the proposed s106 agreement put forward by the Church Commissioners and agreed with Council officers.

Ms Byrd is advising the Chidswell Action Group, who do not wish the development of this allocated site to proceed. Her opinion must be read in that context. We respond to the main points made by Ms Byrd below.

Ms Byrd highlights two points of concern – first, whether the section 106 agreement effectively secures 10% BNG and second, whether it protects the ancient woodland. As Ms Byrd accepts, the points she raises are matters of planning judgement for the Council. They are not matters of law. Nor do they give rise to new considerations as we explain below.

- 1 First, Ms Byrd raises concerns that the area of land available for offsite BNG is substantially reduced as a result of the revisions to the s106 agreement.
 - 1.1 By way of context, we note that the Chidswell Action Group previously argued that 10% BNG should not be located in the ancient woodland. The applicant has made changes to accommodate that representation.
 - 1.2 There is an evidential basis for those changes – the assessment work undertaken at the application stage demonstrates that onsite BNG provision, together with provision within the buffers, can accommodate 10% BNG for both schemes. The applicant did not rely on the provision of BNG in the ancient woodlands themselves in determining that 10% could be met.
 - 1.3 It has therefore been demonstrated that 10% BNG can be delivered - and it must be delivered under the s106 agreement.
- 2 Secondly, Ms Byrd makes points about the percentage split of BNG being provided on and off site and that it might be achieved primarily offsite.

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- 2.1 It has always been the position that the onsite and offsite split will be determined at the detailed design stage. Council officers have the right to approve the BEMP and the Offsite BEMP and therefore the final percentage split.
- 2.2 The s106 now requires that, in approving any offsite BEMP, relevant factors include the mitigation hierarchy and endeavours to meet BNG requirements onsite where reasonably practicable.
- 2.3 Ms Byrd herself states that her argument that 9.99% BNG could be provided offsite is theoretical. Any claim that the provision of 9.99% BNG off site could possibly be acceptable to the Council officers in the real world is simply not realistic taking account of the above.
- 3 Ms Byrd turns finally to public access in the ancient woodland
- 3.1 Ms Byrd's opinion of 11 November 2025 states that members were not aware that the ancient woodland would be "developed and managed for public access" and refers to "extensive works". The recommendation of officers expressly contemplated works if required for public access. The description of the works as "extensive" is Ms Byrd's alone – it is not based on anything other than that the works include path surfacing, signage and dog waste bins. These are typical works that can be sympathetically employed to help control and manage the impact of public access. The Council has the right of approval over these works - and their extent.
- 3.2 The Deloitte letter of 6 November did not criticise the Chidswell Action Group's concerns about public access, sharply or otherwise. These concerns have long been listened to by the applicant and are reflected through the securing of the operational management plan. There are no public rights of way through the woods at present, but it is understood that unlawful access is occurring. The Church Commissioners therefore support controlled public access going forward to ensure any impacts are properly managed.
- 3.3 There is simply no evidence that the works or the development will result in the "likely deterioration" of the ancient woodland. This is asserted (without evidence) by some objecting to the development. On the other hand, the applicant's consultant team have considered the impacts and are content that no adverse effects should arise (see Lucion letter dated 17 November).
- 3.4 The operational management plan (alongside a suite of other conditions) will be in place to prevent adverse effects arising. The submission of the management plan alongside the first reserved matters application clearly means that it can be considered at a very early stage. It is not credible to argue otherwise.

In summary, based on the technical assessment work undertaken, there is no basis on which to conclude that the section 106 agreement will not effectively secure 10% BNG (that is an express requirement of the agreement) or will not protect the ancient woodland (an operational management plan is again an express requirement of the agreement, alongside a suite of conditions that will apply during construction). No new considerations arise out of the above.

Yours faithfully

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