

20 October 2025

The Secretary of State for Housing, Communities and Local
Government
c/o Government Legal Department
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Dear Government Legal Department

Pre-Action Protocol Letter: Land at Packsaddle Way, Frome, Somerset, BA11 2JU
Appeal Ref: APP/E3335/W/25/3363055

Pre-action letter – s.288 Town and Country Planning Act 1990

In the spirit of resolving issues relating to the Decision (defined below) we write to you under the terms of the pre-action protocol process set out in the Civil Procedure Rules.

1. Introduction

- 1.1. LiveWest Homes Limited (“**Livewest**”) made a full planning application to Somerset Council, the Local Planning Authority, for the erection of 74 dwellings (22% affordable homes) and a children with disabilities home, including means of access, drainage, landscaping and associated works. Whilst the Application was recommended for approval, it was refused by Members of the Local Planning Authority’s Planning Committee for one reason (“the **Reason for Refusal**”).
- 1.2. Livewest appealed under s.78 of the Town and Country Planning Act 1990 (“the **Act**”). The Appeal was determined after a Public Inquiry. People for Packsaddle were a Rule 6 Party at the Inquiry (“the **R6 Party**”). The Appeal was refused by Inspector M Chalk BSc (Hons) MSc MRTPI, in a decision letter, dated 29th September 2025 (“the **Decision Letter**”).
- 1.3. Livewest is aggrieved by the Decision (defined below) and wishes to question the validity of it, under s.288 of the Act, on the ground that the Decision is not within the powers of the Act (s.288(1)(a)(i)). Livewest considers the Decision Letter to be demonstrably unlawful, for reasons which are explained in this letter.
- 1.4. Prior to the submission of an application to the Planning Court (s.288(1) of the Act), as the prospective defendant to such a claim you are invited to: (i) agree that permission should be granted for the application (s.288(4A) of the Act); (ii) agree that the Decision should be quashed by consent; and (iii) agree to pay Livewest’s costs of and occasioned by the statutory challenge.

- 1.5. If you are not inclined to consent to judgment, Livewest would be grateful to understand the basis on which any application to the Planning Court would be resisted, so that it can make an informed decision on whether to make the application and/or to focus on the principal issues which are in dispute to assist the Court's determination.

2. To:

Steve Reed as Secretary of State for Housing, Communities and Local Government
c/o Government Legal Department
102 Petty France
Westminster
London
SW1H 9GL

(the "**Defendant**")

3. The Claimant

LiveWest Homes Limited
1 Wellington Way Skypark
Clyst Honiton
Exeter
Devon
EX5 2FZ

(the "**Claimant**")

4. Defendant's Reference Details

APP/E3335/W/25/3363055

5. Details of Claimant's Legal Advisers

Thomas Ewings
Ashfords LLP
Tower Wharf
Bristol
BS2 0JJ

Email: ta.ewings@ashfords.co.uk

Reference: TAE/SHX/351901-00008

6. Details of Matter Being Challenged

The decision dated 29 September 2025, issued by the Defendant in respect of the Claimant's appeal under section 78 of the Town and Country Planning Act 1990 ("the **Act**") under reference APP/E3335/W/25/3363055, following a refusal by Somerset Council ("the **Local Planning Authority**") of the Claimant's planning application under the Council's planning application reference 2023/0864/FUL ("the **Decision**").

7. The Details of Any Interested Parties

- 7.1. Somerset Council as Local Planning Authority (“the **Local Planning Authority**”)– the Local Planning Authority refused the Application and appeared at the Public Inquiry to defend part of its Reason for Refusal (“**RfR**”);
- 7.2. Somerset Council as the landowner of the Application land (“the **Landowner**”); and
- 7.3. People for Packsaddle (the “**R6 Party**”) – who are not a recognised legal body but an informal collection of local residents who were granted Rule 6 status at the Public Inquiry.

A copy of this letter has been sent to the Interested Parties.

8. Issues

Relevant Factual Background

- 8.1. For the purposes of this letter, the relevant factual background can be briefly stated. References to paragraphs in the Decision Letter are noted as DL[#].
- 8.2. The Claimant made a full planning application to the Local Planning Authority for the erection of 74 dwellings (22% affordable homes) and a children with disabilities home, including means of access, drainage, landscaping and associated works (“the **Application**”), on land off Packsaddle Way, Frome, Somerset BA11 2JU (“the **Application/Appeal Site**”).
- 8.3. The Application fell to be determined in accordance with the development plan, unless material considerations indicated otherwise (applying s.38(6) Planning and Compulsory Purchase Act 2004). So far as relevant, the development plan comprises:
 - 8.3.1. Mendip District Local Plan Part 1 (Strategy & Policies 2004-2029), adopted December 2014 (“**LPP1**”);
 - 8.3.2. Mendip District Local Plan Part 2 (Site & Policies Post JR Version), adopted Dec 2021 (“**LPP2**”); and
 - 8.3.3. Frome Neighbourhood Plan (2016) (“**FNDP**”).
- 8.4. A principal controversial issue in the determination of the planning application was whether the Application Site comprised “existing open space”, for the purposes of Policy DP 16 LPP1.
- 8.5. The Application was recommended for approval in an Officer's Report (“**OR**”). The OR concluded *inter alia* that the Application Site did not comprise existing open space and: (i) Policy DP 16 did not apply; or (if it did) (ii) the proposal complied with it. In reaching such a conclusion, the OR addressed legal submissions submitted by People for Packsaddle (“**PfP**”) on the issue.
- 8.6. Despite the recommendation for approval, the Application was refused by Members of the Local Planning Authority’s Planning Committee for 1 reason (“the **Reason for Refusal**”):

The site is located outside of the housing development limit and is therefore contrary to the settlement strategy, as outlined in Policies CP1 (Mendip Spatial Strategy), CP2 (Supporting the Provision of New Housing) and CP4 (Sustaining Rural Communities) of the Mendip District Local Plan Part I. As the Council cannot currently demonstrate a 5-year housing land supply,

the presumption in favour of sustainable development applies, as outlined in the National Planning Policy Framework. Although the site is adjacent to the settlement of Frome, the harms of the proposal would significantly and demonstrably outweigh the benefits. Harms include the principle of the proposal and being contrary to Policy DP1 (Local Identity and Distinctiveness), Policy DP4 (Mendip's Landscapes) and Part 1 of Policy DP16 (Open Space and Green Infrastructure) of the Mendip District Local Plan Part I. As such, the proposal is not considered to constitute sustainable development and is contrary to Policies CP1, CP2, CP4, DP1, DP4 and Part 1 of DP16 of the Mendip District Local Plan Part I and the National Planning Policy Framework.

- 8.7. The Claimant appealed the RfR under s.78 of the Act. The Planning Inspectorate (“**PINS**”) determined that the Appeal was to be determined at a Public Inquiry.
- 8.8. Prior to the Public Inquiry opening on 12th August 2025, the Local Planning Authority signed a Statement of Common Ground (“**SoCG**”) which recorded that it no longer wished to defend the following aspects of its RfR:
 - 8.8.1. The impact of the proposal on local identity and distinctiveness (DP1);
 - 8.8.2. The impact of the proposal on landscape character (DP4).
- 8.9. Further, the Local Planning Authority agreed (SoCG at 1.9) that policies CP1, CP2 and CP4 were out of date, such that only "*limited weight*" should be attributed to them, in the application of the tilted planning balance. The Local Planning Authority accepted that the benefits of the appeal proposals outweighed any land use planning harm which arose from any claimed conflict with policies CP1, CP2 and CP4. Indeed, the Local Planning Authority's position was consistent with a number of recent decisions of PINS.
- 8.10. Accordingly, at the time of the Opening of the Inquiry, the sole remaining issue between the Claimant and the Local Planning Authority concerned the impact of the proposal on Open Space and claimed conflict with Policy DP16. That was confirmed in the SoCG at 1.10. This was recorded in the Decision Letter (DL2). It was, therefore, the key determining issue in the Appeal.
- 8.11. Main Issue 1 in the Appeal (see DL 1) was: "*The effect of the proposed development on the availability of Public Open Space*".
- 8.12. PfP raised a number of additional issues, which explain Main Issues 2 to 6 (DL3 and DL5).
- 8.13. The Public Inquiry opened on 12th August 2025 and sat for 4 days. During the Public Inquiry, the Claimant, Local Planning Authority and R6 Party called witnesses, whose evidence was tested. A large part of that evidence concerned Main Issue 1 (DL7). At the end of the Inquiry, the R6 Party, Local Planning Authority and Claimant delivered Closing Legal Submissions, which addressed, in particular, Main Issue 1.
- 8.14. The Claimant's Closing Submissions address this issue in detail (see paragraphs 48 to 124). The contested issue of the interpretation and applicability of Policy DP 16 is addressed specifically at paragraph 76 *et seq.*
- 8.15. It follows that the interpretation of Policy DP 1 and its applicability in the determination of the Appeal was the central issue for the Inspector to address.

- 8.16. By way of the Decision Letter, the Inspector dismissed the Appeal. Reading the Decision Letter fairly and in full, it was the Inspector's conclusions on the impact to Public Open Space which resulted in the dismissal of the Appeal. None of the other Main Issues (raised by PFP) justified refusal (see especially DL49 and DL50).
- 8.17. In dismissing the Appeal (DL1), it is clear that the Inspector concluded *inter alia*:
- 8.17.1. The Appeal Site was protected Open Space to which Policy DP 16 applied (DL8);
- 8.17.2. The Appeal scheme conflicted with Policy DP 16 (DL16);
- 8.17.3. The proposal was thereby in conflict with the development plan as a whole (DL50).
- 8.18. It follows that the interpretation of Policy DP 16 and its applicability to the Appeal Site was decisive in the Decision. It had been the Claimant's case that Policy DP 16 should be interpreted such that it did not apply to the Appeal Site (as set out in evidence and in the Closing Submissions supra).
- 8.19. The Claimant is aggrieved by this Decision and wishes to question the validity of it, under s.288 of the Act, on the ground that the Decision is not within the powers of the Act (s.288(1)(a)(i)). The Claimant considers the Inspector's interpretation of DP 16 to be demonstrably unlawful.
- 8.20. To be clear, the Claimant challenges the interpretation of Policy DP 16 and the conclusion that it fell to be determined in resolving the Appeal. This is a legal matter for the Courts. The Claimant does not challenge the application of the Policy, which is a matter for the decision-maker.

Relevant Legal Background

- 8.21. The Claimant intends to make a Part 8 claim under s.288 of the Act. The relevant legal background to such statutory challenges will be well known to the Defendant. It does not need to set out in detail in this letter. For convenience, an authoritative formulation of the relevant legal principles from Lindblom LJ in **St Modwen Developments Ltd v SoS** [2017] EWCA Civ 1643 is set out:

*6. In my judgment at first instance in **Bloor Homes East Midlands Ltd. v Secretary of State for Communities and Local Government** [2014] EWHC 754 (Admin) (at paragraph 19) I set out the 'seven familiar principles' that will guide the court in handling a challenge under section 288. This case, like many others now coming before the Planning Court and this court too, calls for those principles to be stated again—and reinforced. They are:*

*'(1) Decisions of the Secretary of State and his inspectors in appeals against the refusal of planning permission are to be construed in a reasonably flexible way. Decision letters are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues. An inspector does not need to "rehearse every argument relating to each matter in every paragraph" (see the judgment of Forbes J in **Seddon Properties v Secretary of State for the Environment** (1981) 42 P. & C.R. 26, at p.28).*

(2) The reasons for an appeal decision must be intelligible and adequate, enabling one to understand why the appeal was decided as it was and what conclusions were reached on the "principal important controversial issues". An inspector's reasoning must not give rise to a substantial doubt as to whether he went wrong in law, for example by misunderstanding a

relevant policy or by failing to reach a rational decision on relevant grounds. But the reasons need refer only to the main issues in the dispute, not to every material consideration (see the speech of Lord Brown of Eaton-under-Heywood in **South Bucks District Council and another v Porter (No. 2)** [2004] 1 W.L.R. 1953, at p.1964B–G).

(3) The weight to be attached to any material consideration and all matters of planning judgment are within the exclusive jurisdiction of the decision-maker. They are not for the court. A local planning authority determining an application for planning permission is free, “provided that it does not lapse into Wednesbury irrationality” to give material considerations “whatever weight [it] thinks fit or no weight at all” (see the speech of Lord Hoffmann in **Tesco Stores Limited v Secretary of State for the Environment** [1995] 1 W.L.R. 759, at p.780F–H). And, essentially for that reason, an application under section 288 of the 1990 Act does not afford an opportunity for a review of the planning merits of an inspector’s decision (see the judgment of Sullivan J, as he then was, in **Newsmith v Secretary of State for Environment, Transport and the Regions** [2001] EWHC Admin 74, at paragraph 6).

(4) Planning policies are not statutory or contractual provisions and should not be construed as if they were. The proper interpretation of planning policy is ultimately a matter of law for the court. The application of relevant policy is for the decision-maker. But statements of policy are to be interpreted objectively by the court in accordance with the language used and in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration, or will amount to having regard to an immaterial consideration (see the judgment of Lord Reed in **Tesco Stores v Dundee City Council** [2012] P.T.S.R. 983, at paragraphs 17 to 22).

(5) When it is suggested that an inspector has failed to grasp a relevant policy one must look at what he thought the important planning issues were and decide whether it appears from the way he dealt with them that he must have misunderstood the policy in question (see the judgment of Hoffmann LJ, as he then was, **South Somerset District Council v The Secretary of State for the Environment** (1993) 66 P. & C.R. 80, at p.83E–H).

(6) Because it is reasonable to assume that national planning policy is familiar to the Secretary of State and his inspectors, the fact that a particular policy is not mentioned in the decision letter does not necessarily mean that it has been ignored (see, for example, the judgment of Lang J in **Sea Land Power & Energy Limited v Secretary of State for Communities and Local Government** [2012] EWHC 1419 (QB), at paragraph 58).

(7) Consistency in decision-making is important both to developers and local planning authorities, because it serves to maintain public confidence in the operation of the development control system. But it is not a principle of law that like cases must always be decided alike. An inspector must exercise his own judgment on this question, if it arises (see, for example, the judgment of Pill LJ in **Fox Strategic Land and Property Ltd. v Secretary of State for Communities and Local Government** [2013] 1 P. & C.R. 6, at paragraphs 12 to 14, citing the judgment of Mann LJ in **North Wiltshire District Council v Secretary of State for the Environment** [1992] 65 P. & C.R. 137, at p.145).’

7. Both the Supreme Court and the Court of Appeal have, in recent cases, emphasized the limits to the court’s role in construing planning policy (see the judgment of Lord Carnwath in **Suffolk Coastal District Council v Hopkins Homes Ltd.** [2017] UKSC 37, at paragraphs 22 to 26, and my judgment in **Mansell v Tonbridge and Malling Borough Council** [2017] EWCA

*Civ 1314, at paragraph 41). More broadly, though in the same vein, this court has cautioned against the dangers of excessive legalism infecting the planning system—a warning I think we must now repeat in this appeal (see my judgment in **Barwood Strategic Land II LLP v East Staffordshire Borough Council** [2017] EWCA Civ 893, at paragraph 50). There is no place in challenges to planning decisions for the kind of hypercritical scrutiny that this court has always rejected—whether of decision letters of the Secretary of State and his inspectors or of planning officers’ reports to committee. The conclusions in an inspector’s report or decision letter, or in an officer’s report, should not be laboriously dissected in an effort to find fault (see my judgment in **Mansell**, at paragraphs 41 and 42, and the judgment of the Chancellor of the High Court, at paragraph 63).*

- 8.22. Legal Submissions on the lawful approach to the interpretation of a development plan policy and reasoned justification were set out in the Claimant’s Closing Submissions (paragraph 76 *et seq*), with reference to: (i) Lord Reed in **Tesco v Dundee** [2012] UKSC 13; (ii) **R (Plant) v Lambeth LBC** [2023] EWCA Civ 809; and (iii) **R (Cherkley Campaign Ltd) v Mole Valley DC** [2014] EWCA Civ 567.

Grounds for the Statutory Challenge

- 8.23. The Claimant’s case at the Inquiry was clear (see Closing Submissions at paragraph 76 *et seq*). **DP 16 seeks to protect existing open space. The protected open space is that shown on the Policies Map and new spaces that come forward. The site is not shown on the Policies Map. It is not a new space that has come forward since the adoption of the Plan. DP 16 therefore does not apply to the site.**
- 8.24. The basis of the Claimant’s legal submissions on this point are set out in detail (see Closing Submissions paragraphs 78 to 113).
- 8.25. The entirety of the Inspector’s reasoning on the interpretation of Policy DP 16 is contained in DL6-8. DL6 is simply a summary of policy DP 16. The relevant part of the Decision Letter states (in full):
- 7. Extensive evidence was presented by the parties on the applicability of policy DP16 to the appeal proposal. The supporting text to the policy [Paragraph 6.149] states that the open spaces of which the council is aware are shown on the Policies Map, and that the policy will also apply to new space that comes forward. Following a merging of local authorities the council is now both the landowner and the local planning authority for the site, whereas when the Part 1 Plan was adopted the landowner was the former Somerset County Council which had intentions to develop the site.*
- 8. This is a significant change in circumstances as the landowner does not now seek to preserve the site for a future development. It recognises that the site has recreational value for residents. Therefore, policy DP16 applies to the site as it is a new site that has come forward due to this change. That a sale has been agreed for the site does not change my position on this point as that is a private rather than a planning matter.*
- 8.26. Reading the Decision Letter fairly and without exegetical sophistication, it is clear that the Inspector has interpreted Policy DP16 to apply to the Appeal Site for the following reasons:

- 8.26.1. At the time of the adoption of the Part 1 Plan (December 2014), the landowner of the Application Site was Somerset County Council, who had an intention to develop the Application Site for a Secondary School. Indeed, this is clear from the LPP1 at 5.9;
 - 8.26.2. Following a merger, Somerset Council is now both the local planning authority and the landowner of the Application Site;
 - 8.26.3. "*This*" is a significant change in circumstances (DL8). "*This*" is referring back to the contents of DL7 i.e. the merging of the authorities;
 - 8.26.4. There is a significant change in circumstances as the landowner does not now seek to preserve the Application Site for a future development;
 - 8.26.5. It (the Council as landowner and local planning authority) recognises that the Application Site has recreational value for residents;
 - 8.26.6. Therefore, Policy DP16 applies to the Application Site as it is a new site that has come forward due to this change i.e. that the site is no longer preserved for future development.
- 8.27. Policy DP16 applies (so far as relevant) to "*existing open space*". The Claimant submitted this term was explained in the Reasoned Justification (6.149): *The open spaces of which the Council is aware are shown on the Policies Map. Development Policy 16 will also apply to new spaces that come forward.* It would appear that the Inspector agreed (see DL7 and Fn1). It was common ground that the Application Site was not shown on the Proposals Map. Accordingly, DP16 could only apply *if* it was a "*new space*" which had come forward since the adoption of the Plan.
- 8.28. It is clear (*supra*) that the Inspector concluded that the Appeal Site was such a "*new space*" and DP 16 applied. There are a number of demonstrable legal flaws in the Inspector's interpretation of Policy DP 16.
- 8.29. Firstly, a "*new space*" should be interpreted objectively (etc) as a piece of open land which was not known about at the time of the adoption of the Plan (and so could not be protected on the Proposals Map) but has since come to the notice/knowledge of the Local Planning Authority. It was common ground that the Appeal Site was known to the Local Planning Authority at the time of the adoption of the Plan. That is clear from the wording of LPP 1 (at 5.9): *Given the concentration of schools on the southern side of the river, the best location for any new school remains to the north of the town which can address recognised traffic issues across the town associated with the morning school run. The County Council retains a site at Packsaddle that was purchased for this purpose.* That is an express reference to the Appeal Site. That is accepted by the Inspector when concluding (DL7): "*...when the Part 1 Plan was adopted the landowner was the former Somerset County Council which had intentions to develop the site*". It follows, even on the basis of the Inspector's reasoning, that the Appeal Site was not a "*new space*" that had come forward at all.
- 8.30. Secondly, it was common ground that the condition and/or use of the Appeal Site had been the same from 2012 (the date of adoption of the Plan) to date. Further, the definition of "*open space*" (either in the LPP1 or NPPF) had not changed from 2012 to date. It follows that the Appeal Site was not a "*new space*" that had come forward at all. This is not an issue which the Inspector considers at all, even though it was one of the central reasons why the Claimant submitted the Appeal Site was not a new space (see Closing Submissions at paragraph 97).

8.31. Thirdly, in that (agreed) context, the sole reasons for the Inspector concluding that the Appeal Site is a new site that has come forward is that: (i) there is a new Unitary Authority; and (ii) the Landowner does not now seek to preserve the site for a future development. The formation of the new Authority is simply irrelevant to whether the site is a new space. Further, there are a number of flaws in the contention that the Landowner does not now seek to preserve the Appeal site for future development:

8.31.1. Whilst in 2012 the landowner intended to develop the Appeal Site for a school, this was not a policy designation. Rather, it was an intention from the Landowner that the Appeal Site should be developed (and not therefore to be open space);

8.31.2. The Landowner's intention to develop the Appeal Site did not protect the Appeal Site meaningfully or at all. Rather, it simply meant that the Appeal Site was known about at the time of the adoption of the Plan and could have been identified on the Proposals Map, if the Local Planning Authority considered such a designation to be sound. Accordingly, any change in the landowner/landowner's intention to develop the Appeal Site is irrelevant to the issue of whether the site is a "new space" that has come forward since 2012;

8.31.3. At the Inquiry, the only evidence on the Landowner's intention came from the witness statement of Charles Field MRICS FAAV, who had been employed by Somerset Council from 2001 to 31st May 2025, most recently as Head of Estates Strategy and Development in the Strategic Asset Management Service. His (uncontested) evidence was that on 24th July 2000, Somerset Council (as Landowner) resolved to declare the Appeal Site surplus to education requirements; and (ii) to seek the allocation of the Appeal Site for housing purposes. Such a decision is not relevant to the status or use of the Appeal Site as existing open space. Further, it is quite clear that the Landowner has had an intention to develop the Appeal Site since before 2012 and that intention has not changed materially over time. The Inspector is wrong to conclude that "*the landowner does not now seek to preserve the site for a future development.*" All of the available evidence, which is not considered in the Decision Letter, supported the contrary factual conclusion;

8.31.4. Indeed, Charles Field sets out all of the measures Somerset Council has taken as Landowner to ensure that: (a) the Appeal Site can be developed; and (b) permanent rights to use the Appeal Site as open space by the public cannot be acquired. Again, none of these issues are considered (transparently or at all) by the Inspector and do not form part of his reasoning;

8.31.5. The latest resolved position of the Landowner is contained in the decision, dated 9th March 2022, in which Somerset Council resolved to enter into an option agreement with LiveWest, in order to generate a capital receipt. The evidence of Charles Field was that contracts had been exchanged on a subject to planning basis with LiveWest. If planning permission were granted, Somerset Council (as Landowner) would receive the capital receipt, as it was contractually obliged to sell. It is clear that the intention of the Landowner (at the time of the Inquiry) was that the Appeal Site should be developed for housing by LiveWest, to allow Somerset Council to dispose of a surplus asset and to generate a capital receipt. The intention of the Landowner that the site should be developed had not changed from 2012 (as the Claimant explained in some detail in its uncontested evidence);

8.31.6. Indeed, "*part of the Appeal Site is to be retained by the Council to meet future potential strategic need for social care*" (*ibid*). That is the basis of the children with disabilities home on the site. The Landowner has, in fact, expressly sought to preserve the site for future development, which is promoted by the planning application.

8.32. In such circumstances, the grounds of statutory challenge could be articulated in a number of ways:

8.32.1. The Defendant has failed to interpret Policy DP16 lawfully. Rather, the Claimant's approach is the lawful interpretation. Policy DP16 did not apply in the determination of the Appeal;

8.32.2. The Defendant has taken into account considerations which are not material (a claimed change in the Landowner's intentions regarding the development of the site);

8.32.3. The Defendant has failed to take into account material considerations (the resolutions of Somerset Council as Landowner on how the site should be sold for housing development);

8.32.4. The Defendant has made a significant error of fact, which is inconsistent with all of the evidence (the Landowner's position had changed regarding the preservation of the Appeal Site for development);

8.32.5. The Defendant has reached a decision which is internally inconsistent and irrational;

8.32.6. The Defendant has failed to give any (or any adequate) reasons to explain (a) why the Claimant's interpretation has been rejected and/or (b) why the Inspector has interpreted the Policy in this manner.

8.33. Indeed, the Inspector has reached a decision on a basis which was not contended for by either the Local Planning Authority or the R6 Party.

9. The Details of the Action that the Defendant is expected to take

9.1. On the above basis, the Defendant is invited to:

9.1.1. agree that permission should be granted for the application (s.288(4A) of the Act);

9.1.2. agree that the Decision should be quashed by consent; and

9.1.3. agree to pay the Claimant's costs of and occasioned by the statutory challenge.

9.2. If you are not inclined to consent to judgment, the Claimant would be grateful to understand the basis on which any application to the Planning Court would be resisted, so that it can make an informed decision on whether to make the application and/or to focus on the principal issues which are in dispute to assist the Court's determination.

10. ADR Proposals

10.1. Not applicable.

11. The Details of any Information Sought

- 11.1. The Defendant is requested to disclose specifically what information the Defendant considered when taking the Decision. Further, the Defendant is requested to provide a full explanation of the reasons for the Decision (see paragraph 8.32.6).
- 11.2. Notwithstanding the generality of the above, the Defendant is requested to give a full explanation of the reasons for the Decision to the extent they relate to the interpretation of Policy DP16 LPP1.

12. The Details of any Documents that are Considered Relevant and Necessary

- 12.1. See paragraph 11 above and the Defendant is requested to disclose any document relating to those matters.

13. The Address for Reply and Service of Court Documents

Thomas Ewings
Ashfords LLP
Tower Wharf
Bristol
BS2 0JJ

Email: ta.ewings@ashfords.co.uk

Reference: TAE/SHX/351901-00008

14. Proposed Reply Date

- 14.1. The Defendant is asked to respond to the contents of this letter as soon as possible.
- 14.2. Given the application to the Court must be submitted before the end of the period of six weeks, beginning with the day after the date of the Decision, the Defendant is requested to respond within 10 days, to allow time for the response to be properly considered prior to an application being submitted in respect of the Decision (if so advised).

Yours faithfully

A handwritten signature in black ink that reads "Ashfords LLP". The signature is written in a cursive, slightly stylized font. Below the signature, there is a short horizontal line.

Ashfords LLP