

Planning Development Service
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

17th May 2023

For the attention of Mr. David Eaves – Case Officer

Ref: Application Number APP/21/01434

Dear Sir,

We would like to draw your attention to items contained within the Technical Note recently submitted in support of planning application APP/21/01434 (your document reference online-applications/files/32305CB3EAF595BEC7440F895C6BE414/pdf/APP_21_01434-TECHNICAL_NOTE-1745413.pdf).

Your initial attention is drawn to section 2.2.10 which refers to “Emergency Access”. Rook Farm Management Company Limited (RFMC), title holders of the land over which access is required in support of the planning application, wish to challenge the transfer of access rights to the successors in title because the development of the dominant land represents a radical change in its character and a change in its identity.

As correctly stated in the Technical Note the existing right of access is *“right of way with or without vehicles for all purposes over and along the Access”, with ‘the Access’ for this purpose being what is Rook Farm Way*”, whilst this is and has been in use by the current owner of the dominant land and their tenants in connection with farming it is our opinion that the ability of the current rights to be passed to successors in title will become unworkable once the dominant land has been developed and ownership fragmented. Where an express right of way exists then the deed granting the rights must be construed to ascertain the extent, nature and purpose of the right of way therefore we suggest that the current right of access will need to be redefined to identify the new beneficiary and to define the extent of access hence the existing access right will no longer be valid.

Given the nature of the development and fragmented ownership should the land be developed as suggested it is unlikely that, post development, the “successor in title” will be Gladman Developments Limited or their owners Barratt Developments. The Technical Note in question states that the access will be restricted to emergency services only but how will they be identified as the beneficiary of the access right when they are not the “successors in title”.

The Technical Note states that the applicant believes the access right passing to the successors in title is sufficient to confirm a right to utilise Rook Farm Way in connection with their application proposals but it fails to demonstrate who the successor in title will be post development therefore without a beneficiary RFMC suggest the current right of access will be unworkable and therefore the claim that Rook Farm Way can be utilised in connection with the application does not stand up to scrutiny.

It is also noted that the Technical Note states *“2.2.12 Rook Farm Way is not proposed to be used for general pedestrian or cyclist access in order to minimise any disruption to the residents of the road”* unfortunately this gives no indication of how pedestrian or cyclist access would be prevented, if the development of the land were to be approved then this is something that would need to be mutually agreed between RFMC and the developers before final approval to ensure the street scene of Rook Farm Way is maintained and no financial burden is incurred for maintenance and control of the pedestrian and cyclist proof barrier by RFMC.

Finally we note that in section 2.2.11 it states that it is “highly unlikely that emergency vehicles will every require access to the site via Rook Farm Way”, assuming the word “every” is intended to state “ever”, then we would suggest that given the inevitable problems in regard to establishing who the eventual successor in title will be post development an alternative emergency access route should be identified as soon as possible.

Yours sincerely,

On behalf of Rook Farm Management Company Limited