



Shropshire Council  
Planning Department  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire  
SY2 6ND

Our ref: J0050419

4<sup>th</sup> September 2023

**By Email Only**

Dear Sir/Madam

**PLANNING APPLICATION REFERENCE: 23/02170/FUL**

**LAND BETWEEN A495 BUSINESS PARK ROUNDABOUT AND CANAL WAY, ELLESMERE, SHROPSHIRE**

I write in respect of the above application, validated by Shropshire Council on 6<sup>th</sup> June 2023.

My client, the 4<sup>th</sup> Duke of Westminster's 1964 Settlement, can be recognised to hold a freehold interest in the property subject to the application. Such freehold interests include for and extend across much of the footprint area of the development proposed.

In respect of application submitted and the proposals within:

1. It is noted within the Application Form published upon the Council's planning portal that the applicant has declared notice of the application to have been served on three parties who are deemed to be owners or tenants of the land. My client has a freehold interest in the land registered at the Land Registry under title references SL200618 and SL200627 and can be considered an 'owner' of the land in the context of Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

As my client is not amongst those owners who have been identified to have received prior notification of the application, it seems apparent that there has been a procedural omission in the applicant failing to serve the requisite notice.

2. My client's interest in the property that is subject to the application includes for an interest in the underlying mines and minerals. In this instance that interest can be recognised to be located at a shallow depth beneath the thin topsoil horizon that provides an initial layer of cover underlying the

surface land. Given the nature of the development proposals presented by the applicant e.g. bulk earthworks, buried service routes etc, it is inevitable that my client's property will be consequentially impeded upon and disturbed. In the absence of any agreement between the applicant and my client any disturbance of the underlying minerals would constitute a trespass and would be subject to potential injunctive action by way of remedy. The applicant had previously been made aware of this stance ahead of the submission of their application.

Whilst it is appreciated that matters relating to any potential civil action attributed to property rights are not itself a material planning concern, it should be recognised that without my client's prior approval to make its property interests available this scheme can be considered undeliverable. It follows that the grant of planning permission in such circumstances presents the risk of distorting local targets for housing provision and may lead to better alternative sites being unnecessarily dismissed over miscalculated landbank figures.

With the above factors in mind, this letter should be read as a formal objection to planning application reference 23/02170/FUL and please be aware that such objection shall be maintained and enforced until the applicant resolves necessary formalities.

Yours faithfully



**Paul Clarke MRICS MIQ**

Partner, Minerals & Waste Management

For and on behalf of Carter Jonas LLP

