

Mr K Dicks (Chief Executive)
Redditch Borough Council
Walter Stranz Square
Redditch
B98 8AH

12th June 2023

via e-mail : susan.tasker@bromsgroveandredditch.gov.uk

Dear Mr Dicks

Proposed development of land adjoining Hither Green Lane - planning application 21/01893/FUL

Thank you for your e-mail response of 15th May 2023 regarding the above. Your comments are appreciated and noted.

Regarding the covenant that restricts the use of the land to Leisure purposes; whilst it is recognised that this is not essentially a planning matter, I assume the Council will give serious consideration to the implications of this in its deliberations. For example, the applicant may find it difficult to secure title indemnity insurance, which is what would be needed for them to sell the houses; prospective buyers and lenders will insist on this. The large number of objections making specific reference to the covenant may make arranging suitable insurance a challenge. Whilst, as you rightly say, this is a matter for the applicant, it cannot be in anyone's interests for planning consent to be granted if there is a reasonable prospect that the development may be unable to proceed due to potential legal ramifications.

To the best of our knowledge the applicant has not sought a variation or release from the covenant, now held by Homes England (successor to the Commission for the New Towns, the original beneficiary of the covenant). It is also assumed that no attempt has been made to discharge the covenant through the Lands Tribunal on the basis that the covenant may be outdated. I would have expected contact to have been made with the Council by the Lands Tribunal, and the Council, in turn, would confirm that the land continues to be used for the purposes intended, i.e., leisure purposes.

NoRCA places great significance on the protection we feel the covenant affords us. You may be aware that a local residents' group in Shropshire, (Greenfields Community Group) similar to our own, has been successful in taking their objection to planning approval being granted by Shrewsbury Town Council all the way to the Supreme Court by way of a Judicial Review. The case, Day v Shrewsbury : <https://www.supremecourt.uk/cases/uksc-2021-0031.html> has established a precedent which action groups may seek to emulate and leverage where some form of covenant or trust was established in the past.

A high-profile illustration of this is that campaigners opposing the expansion of the Wimbledon tennis facility by the All England Club are seriously considering this approach – I've attached an article from the Sunday Times of 4th June 2023 for your reference: <https://www.thetimes.co.uk/article/77fcc9ca-0183-11ee-91d8-175820cfd88?shareToken=77bca7d8fed107df6c8b7690bc25a24b>.



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As can be seen, there are clear parallels with the application presently being considered by the Council in the above examples. The prospect of further loss of green open space in the north of the Borough is a serious concern for residents who remain resolute in their opposition to the proposed development.

Yours sincerely

Mark Jacobs

Chair (NoRCA)

Tel: 07747 008368

cc: Cllr. M Dormer (Leader of the Council)
Ms R Bamford (Head of Planning)
Mr P Lester (Planning Officer)

