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Chief Executive



**Hinckley & Bosworth
Borough Council**

Please Ask For: Chris Brown
Direct Dial/Ext: 01455 255970
Email: chris.brown2@hinckley-bosworth.gov.uk
Your Ref: KGCC – pre-action

Date: 22 October 2025

George Denny / Martin Ladd
Kyns Golf & Country Club Ltd
Station Road,
Market Bosworth,
CV13 0NP

Via email to: martinladdkgcc@gmail.com

Dear Mr Ladd and Mr Denny,

Re: Letter before Claim – Proposed Claim for Judicial Review - planning applications 24/00560/HYB, 24/01079/OUT and 24/01157/HYB

I am writing in response to the above and your letter dated 9 October 2025 addressed to the Director – Corporate Services in their role as Monitoring Officer and further to correspondence dated the same day.

The intimated claim is resisted. The Council does not submit to the remedies sought, those being to not execute or seal any S106 or issue any decision (*not stated but presumed to be in regarding to 24/00560/HYB*). If proceedings are issued, they shall be resisted robustly and the Council will seek a full award of costs against the claimants through the courts.

As stated in correspondence via email from Chris Brown dated 9 October 2025, the letter received does not reference the previous complaint procedures undertaken, including the Council's response issued on 24 July 2025 under Stage 2 of the Council's complaint procedure, which already addresses many of the issues raised in your pre-action letter.

It is also noted that the pre-action letter received is deficient and does not comply with the Pre-Action Protocol. For instance, it does not clearly state any interested parties, nor was it served on any interested parties, these in the very least amounting to both Miller Homes and Richborough Estates as the applicants for the planning applications referenced and any relevant landowners.

The Council also queries the identity and standing of the claimants, with two parties listed as joint claimants being identified as the joint planning agents for Kyns Golf & Country

Club. This clearly conflicts with the ownership certificate provided in submitting application 24/01157/HYB. If the intended claimant is the club itself then this should have been made clear.

In response to the grounds as set out in the pre-action letter, the Council responds as set out below.

GROUND 1

In submitting a planning application, a certificate must be provided that provides details of the ownership of the site and confirms that an appropriate notice has been served on any other owners. The forms for this notice are set out in Schedule 2 of the Town and Country Planning (Development Management Procedure (England) (Order) 2015. Submission of the relevant certificate is required for an application to be validated.

In the case of application 24/00560/HYB, Certificate B was signed with the application form. This is available to view here: https://publicdocuments.hinckley-bosworth.gov.uk/PublicAccess_Live/Document/ViewDocument?id=1E2BBFB0AC7345C9AAF4D5850843794C and has been publicly available to view since August 2024. Certificate B includes four landowners for the site. One of these four landowners is clearly stated in Certificate B as the Council.

The Council was served notice by the applicant in June 2024, and as shown above, has been publicly known as a landowner of part of the site since August 2024.

Ground 1 claims that ownership by the Council of the site was not declared until the June 2025 Planning Committee. As the above clearly shows, this is not the case, with the Council shown to be a landowner of the site on the application form submitted with the application in August 2024. A declaration, as suggested, is not required as part of any planning committee meeting. As the Council is a landowner, as stated in the application form, the application has to be considered by the Council's Planning Committee in accordance with the Council's constitution, the application cannot be delegated to Officers to determine. In this case, the application has been considered by the Planning Committee, in a public forum, on two occasions.

Matters raised under Ground 1 concerning the claimant addressing the Planning Committee are already covered by the 24 June 2025 Stage 2 complaint response by the Council. If the claimant is seeking any further action in this regard, there remains the option of submitting a complaint to the ombudsman for any redress.

Turning to the reference to *Kides v South Cambridgeshire District Council* [2002] EWHC 3084 (Admin); [2003] J.P.L. 470, there are not considered to be any new material considerations that have emerged since the previous consideration of the item at Planning Committee. The application was first considered in February 2025 and received a resolution to grant permission. The application was then re-considered by Planning Committee in June 2025 following a change to the proposed affordable housing provision on the site. This was considered to be a material change and therefore the application was taken back to Planning Committee for consideration.

Your reference to land ownership being a new material consideration is misconceived. As set out above, the Council's interest as landowner has been publicly available information since August 2024 in the submitted application form. There was no change in land ownership since the submission of the application and first consideration at Planning Committee in February 2025, nor has there been any change in land ownership between February 2025 and July 2025 when the application was re-considered by Planning Committee. Nor has there been any change since then. As such, there is no new material consideration regarding land ownership to be considered and there has been no change in the red line boundary of the application site since the application was submitted.

In respect of the 2003 S278 agreement it is incorrect to suggest that this is a new material consideration that has arisen since the planning application was considered by Planning Committee. The 2003 S278 agreement is both outside of the red line and does not introduce any new ownership considerations relevant to application 24/00560/HYB. A certificate for an application relates to land within the red line only. KGCC do not own, control or have any right of access across any land within the red line boundary. Further, Ground 1 is unclear as to what concerns are raised between the 2003 S278 agreement and this application (24/00560/HYB).

No new material considerations have been introduced for 24/00560/HYB, and with regards to existing material planning considerations on highways matters, all access plans have been publicly available to view at each submission and have been subject to consultation with the Local Highway Authority at each stage. Both the comments of the Local Highway Authority, and planning conditions including an access plan have formed part of each Planning Committee report. The access plan for 24/00560/HYB has been approved through this process and there is not considered to be any conflict with any other S278 agreement. Furthermore, any S278 agreement for application 24/00560/HYB is a separate process with the Local Highway Authority and falls to be considered under the Highways Act 1980. A s278 agreement does not fall to be considered under the planning acts relevant to determining a planning application.

Ground 1 refers to the nearby planning application submitted by Richborough Estates (24/01079/OUT). This is fundamentally different to this application (24/00560/HYB) as the Richborough application proposes to use the same access at KGCC and the current pending application of 24/01157/HYB. This is not the case with application 24/00560/HYB, with no such use of the same access. As such, there is no further material consideration being raised for application 24/00560/HYB resulting from or resulting since consideration of this item at Planning Committee in both February 2025 and July 2025. Application 24/01079/OUT is discussed further under Ground 3 below.

GROUND 2

Ground 2 asserts that consideration of application 24/00560/HYB is procedurally unfair as Certificate B on the planning application form was not served on KGCC.

As stated in the submission by the claimant, any S278 for KGCC relates to the 'corridor' of Station Road. Any S278 agreement in which KGCC claims a benefit does not amount to KGCC having an interest in the land. The Town and Country Planning (Development Management Procedure (England) (Order) 2015 and the Planning Practice Guidance are

clear on when Certificate B shall be served on another party (or any other Certificate), with this relating to ownership of the land to which the application relates. The land to which the application relates is land within the red line boundary. In this case, KGCC do not own any land within the red line boundary, nor have any access over it. As such Certificate B is not required to be served on KGCC.

Should application 24/00560/HYB be permitted and the permission be implemented and then built out, this can be done so on land solely in the control of the four parties on who Certificate B was served. These do not include KGCC. If KGCC seeks to assert that they do have an interest in the land within the red line boundary which impacts on the applicant's ability to build out the permission then that is a matter between the applicant and KGCC, not the Council as local planning authority.

GROUND 3

Ground 3 appears to raise the same matter as Ground 2, namely that KGCC feels that notice should have been served on it under Certificate B prior to determination of the application, this time for application 24/01079/OUT (Richborough Estates).

In the case of determining application 24/01079/OUT, a S278 agreement was referenced in the late items paper prior to Planning Committee on 12 August 2025. Whilst acknowledging a S278 agreement, so that Planning Committee were fully made aware, this does not amount to any procedural unfairness with regards to any Certificate B. As explained above, this is a matter of land ownership and red line boundaries.

With regards to Ground 3, application 24/01079/OUT was resolved to refuse planning permission at Planning Committee on 12 August 2025. A decision notice of refusal was subsequently issued by the Council. As such, the Council has not granted planning permission for this application, irrespective of what Certificate was required, or not required, to be submitted with the application form.

It is therefore not clear to the Council as defendant what remedy is sought with regards to Ground 3. Any judicial review claim under Ground 3 is substantially out of time, and the refusal determination is subject to a planning appeal under section 78 of the Town and Country Planning Act 1990. Future determination of application 24/01079/OUT is therefore a matter for the Planning Inspectorate through the appeal process; it is not a matter for the Council as defendant.

Yours sincerely,

Christopher Brown, Assistant Director Planning and Regeneration
on behalf of Hinckley & Bosworth Borough Council

cc. Julie Stay – Assistant Director People Law and Governance
Mr Bill Cullen – Chief Executive
Julie Kenny – Director Corporate Services

Mr Tim Hartley – case officer for application 24/00560/HYB
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