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Our ref: RAN001/0002/mc  
27 November 2020

Dear Sir

### **Barkway - BK3**

We act on behalf for the Rand Bros, the owners of part of BK3 currently allocated for development who are shocked and dismayed by the sudden turn of events with regard to BK3 following yesterday's publication of ED210 & ED 211. It is unprecedented, in our experience, for a plan making authority to behave in this way in the middle of the hearing sessions.

At present it is not clear who has taken this very recent decision and under what authority. ED210 is neither signed or dated and there is no evidence of a purported delegated decision being taken by the Head of Development & Building Control in consultation with the Executive Member for Planning & Enterprise.

We note that Full Council approved the plan for submission on the 17 April 2017 and subsequently the Executive through Cabinet approved the Main Modifications for public consultation on 10 December 2018 following the first hearing sessions. This lack of transparency compounds matters. We are writing to the District Council seeking clarification. As the recent court decision in the case of [Flaxby V Harrogate BC \[2020\] EWHC 3204 at 67 & 68](#) demonstrates, not all decisions about the content of the Local Plans can be delegated.

ED210 suggests that recent school arrangements providing for Reception & Yr 1 pupils to be educated at Barkway and Yr 2, 3, & 4 to be educated at Barley "materially impacts upon the sustainability of Barkway". We note that these arrangements were in fact in place at the time the Main Modifications were approved for consultation. Accordingly there has not been any recent material change in the situation on the ground since the Council approved the Main Modifications for public consultation.

Additionally ED210 alleges uncertainty about when, rather than if, the reserve site needs to come forward & so suggests that is *should be considered* for deletion and excluded from the proposed village boundary. It is also suggested, in this scenario, Barkway should revert to its category A status.

We strongly refute the suggestion that it is appropriate to seek to downgrade the village in this way. We also take issue with the idea that this matter can be considered in isolation. Had the Main Modifications signalled such a change, my clients would have made very different representations. They would have considered the settlement status of Barkway, with appropriate comparisons and the extent to which any or any part of the BK3 land could come forward for residential development in both a reserve & no reserve school world. This land is not Green Belt ("GB"), indeed it is one of the largest non-GB allocations in the plan. Even if the need

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for the school falls away, which is not our understanding of the County's position, fully exploring and assessing the capacity of the northern edge Barkway to accommodate residential development is essential. The case for exceptional circumstances for the release of GB land elsewhere must be predicated on all other non GB land being thoroughly considered and assessed. Currently the local plan hearing sessions are considering Sustainability Appraisal ("SA") and GB issues but we are not able to inform & participate in these sessions as we would have wanted to do, had this matter been raised as part of the Main Modifications approved for public consultation.

Implicit in the Council's note ED210 on BK3 and your note on BK3 ED211 is that you will not now be examining the plan as submitted & proposed to be modified vis a vis Barkway. Rather, you have signalled that you will be examining the as yet unformulated modifications which can be discussed separately at a Barkway or Site BK3 session. We wish to register our concern that the District's decision taken mid-way into the second round of hearings has wider implications and that we and others with interests in Barkway cannot and should not be prevented from exploring those in full at any future session. In particular we would want to address the GB exceptional circumstances test and SA issues. Not to allow to do so would be wholly prejudicial and deprive us of our right to have our representations properly heard.

Yours faithfully

Town Legal LLP