

APPENDIX 4

**Letter from Pinsent Masons Solicitors for AWE plc to Appellants
Planning Consultants, Provision, dated 22nd March 2023**

BY EMAIL

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22 March 2023

Dear Ms Miles

**WEST BERKSHIRE PLANNING APPLICATION REF 22/00244/FULEXT
APPEAL REF APP/W0340/W/22/3312261**

We act for AWE plc (AWE).

AWE has elected not to apply under section 288 Town and Country Planning Act 1990 to challenge the Inspector's decision in the Three Mile Cross Appeal ref APP/X0360/W/22/3304042.

AWE considers that the Inspector erred in their application of national defence and security policy, the "agent of change" principle and in their approach to public safety considerations more generally. The Inspector also failed to have adequate regard to AWE's objection to the development, as put before the Inspector in the local planning authority's Emergency Planning Proof of Evidence. AWE also finds errors in the technical emergency planning evidence before the Inspector.

However, AWE understands that statutory challenges are not an opportunity to revisit the merits of a particular planning decision and that there are limited grounds for introducing new evidence that was not before the Inspector at the time of determination. On this basis, AWE has elected not to proceed with a legal challenge in this particular case.

AWE has received legal advice from King's Counsel which confirms that the Inspector's decision in the Three Mile Cross Appeal is not a binding precedent, as is evident from the appellant's own evidence and way that the Inspector dealt with the previous decisions where residential development had been refused. AWE considers there are grounds to distinguish this decision in future on the basis that the Inspector did not have the benefit of detailed submissions and evidence from AWE. For this reason, AWE will be applying for formal Rule 6 status in connection with your client's appeal, in order to present such evidence.

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It is important to ensure the Planning Inspector is presented with all relevant evidence so they can properly assess the impact of developments in the DEPZ on public safety, the AWE off site emergency plan and national security and defence.

Yours sincerely

Hanna Virta
Senior Associate
for Pinsent Masons LLP