khift

The Secretary of State for Housing,
Communities and Local Government
2 Marsham Street
London
SW1P 4DF

Our ref: BCC.001
Your ref: PCU/RARE/C3105/3378843
T: 01363 779249
M: 07767 686661
E: tim@khift.com

By email only – newproceedings@governmentlegal.gov.uk

16 September 2026

PRE-ACTION PROTOCOL LETTER

THIS LETTER REQUIRES YOUR URGENT ATTENTION

Dear Sir/Madam

1. This is a pre-action letter in support of an intended application for judicial review.

Proposed Claimant

2. We are instructed by Bicester Countryside and Communities CIC of 25a Market Square, Bicester, Oxon OX26 6AD ("the Proposed Claimant").

Proposed Defendant

3. The Secretary of State for Housing, Communities and Local Government ("the Secretary of State").

Decision to be Challenged

4. The screening direction issued by the Secretary of State (ref: PCU/EIASCR/C3105/3378828) under regulation 5(3) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA

Regulations”), which concluded that the proposed development at the former Defence Storage and Distribution Centre, Bicester (“the Site”) is not EIA development (“the Screening Direction”).

Date of Decision

5. 26th August 2026.

Factual Background

The Site

6. The Site forms part of the former Ministry of Defence Defence Storage and Distribution Centre at Bicester, Oxfordshire. It comprises approximately 10.1 hectares within the northern part of a wider 50.5 hectare site. The wider site was constructed between 1941 and 1943 and was used for military storage purposes, including the handling and storage of munitions.

7. The Site is located approximately 6 km to the southeast of central Bicester, and is bounded by the B4011 to the west and agricultural fields to the north, east and south. The nearest settlements are Piddington (c. 250m southeast), Upper and Lower Arncott (c. 1.5km west) and Blackthorn (c. 1.3km north). The Site is accessed exclusively from the B4011, a single carriageway rural road subject to a 50mph speed limit with no street lighting or footways.

8. Arncott Bridge Meadow SSSI is located c. 1.8km to the northwest of the Site. The Site itself falls within the SSSI Impact Risk Zone. The site lies entirely within a Drinking Water Safeguard Zone (Surface Water) over a Secondary A aquifer. The majority of the Site falls within Flood Zone 1, but a small area in the northeastern corner falls within Flood Zones 2 and 3.

9. The Site contains habitats suitable for several protected and notable species. Further, an Asbestos Demolition Survey has confirmed the presence of asbestos-containing materials (“ACM”) on site.

The Proposed Development

10. The proposed development is for non-detained asylum seeker accommodation providing up to 1,256 bedspaces for single adult males, together with associated health and welfare facilities, site infrastructure, wastewater treatment plant, roads, access ways, security infrastructure, parking, staff accommodation and recreational areas (“the Development”).

11. The Development is proposed in three phases. Phase 1 provides 408 bedspaces on existing hardstanding. Phase 2 adds 216 bedspaces adjacent to Phase 1. Phase 3 provides a further 632 bedspaces and includes below-ground attenuation tanks and a surface water pumping station.

12. All facilities will be in newly constructed modular structures.

13. The duration of the operational phase is a minimum of 10 years, subject to review with the potential for extension.

<u>The Screening Request</u>

14. On 3rd July 2026, the Home Office submitted an EIA Screening Opinion Request to the Planning Casework Unit of the Ministry of Housing, Communities and Local Government ("MHCLG"), seeking a direction under Regulation 5(6)(b) of the EIA Regulations as to whether the Development constituted EIA development ("the Screening Request").

15. The Screening Request was accompanied by a range of technical assessments. At the date of submission, several were acknowledged to be unavailable or incomplete.

16. On 6th July 2026, the Home Office submitted the Urgent Crown Development application ("the UCD Application") to MHCLG under sections 293B–293E of the Town and Country Planning Act 1990 ("the 1990 Act"), before the screening direction had been received.

17. The application adopts a "Rochdale Envelope" approach, purporting to assess maximum parameters. The Parameters Site Plan (Drawing BIC-DR-AR-100107-P01) identifies an "*Operational Development Zone up to 12m high measured from existing site levels*".

18. On 26th August 2026, the Secretary of State issued a screening direction (ref: PCU/EIASCR/C3105/3378828) ("the Screening Direction"), accompanied by a written statement of reasons ("the Written Statement").

19. This concluded that the Proposed Development is Schedule 2 development within paragraph 10(b) of Schedule 2 to the EIA Regulations (Urban Development Project), but that it is not likely to have significant effects on the environment and is therefore not EIA development.

20. The Written Statement is considered in more detail below, in so far as is relevant to each ground of challenge. In overview, it is structured into three topics (corresponding with Schedule 3 of the EIA

Regulations): (i) the characteristics of the development; (ii) the location of the development and (iii) the characteristics of the potential impact:

(1) Under Schedule 3(1), the Written Statement describes the three phases of development, and concludes that significant effects are unlikely in respect of each of the seven criteria at Schedule 3(1)(a)–(g), including the production of waste, pollution and nuisances, and the risks to human health.

(2) Under Schedule 3(2), the Written Statement describes the site and its surroundings, including the nearby SSSI, the Drinking Water Safeguard Zone, the flood risk position, and the ecological designations.

(3) Under Schedule 3(3), the Written Statement addresses what the Secretary of State considers to be the main impacts: air quality, noise, land contamination, flood risk, sewerage, surface water drainage, ecology, highways, community impact and human health, and cumulative effects. For each topic it describes the potential impacts and the proposed measures to address them and concludes that significant effects are unlikely.

21. A common feature of the assessment carried out is that the Secretary of State treats outstanding uncertainties regarding the impact of the Development as being resolved by future investigation and mitigation measures that do not yet exist.

22. Further, the Written Statement assesses the development on the basis that the maximum building height is 6m (2 storeys), notwithstanding the fact that (as above), the Parameters Site Plan submitted for approval identifies an Operational Development Zone up to 12m high.

Proposed Grounds of Challenge

23. There are three grounds of challenge, as set out below.

24. These grounds are confined to the lawfulness of the Screening Direction. Our client reserves the right to challenge any subsequent decision to grant planning permission on all available grounds. Nothing in this letter is to be taken as acceptance that the decision-making process to date is otherwise lawful.

Ground One: Reliance on Future Investigations and Unconfirmed Mitigation

25. The Screening Direction erred in assuming that future investigations and mitigation measures would resolve the environmental risks identified, and in treating that assumption as a sufficient basis for concluding that

significant effects were unlikely. That is contrary to R. (Gillespie) v First Secretary of State [2003] EWCA Civ 400, applied in R. (Swire) v Secretary of State for Housing, Communities and Local Government [2020] EWHC 1298 (Admin).

26. The legal framework is well established:

(1) A decision-maker may take account of proposed remedial or mitigation measures when considering whether development is likely to have significant environmental effects.

(2) However, such measures can only be relied upon where they are sufficiently particularised, their effectiveness is established, and their likely success can be predicted with confidence.

(3) Where there is material doubt or uncertainty about the efficacy of the proposed measures, the precautionary principle applies, and a negative screening decision cannot properly be taken.

(4) Whether the proposed measures are effective is a matter of evaluative judgment for the decision-maker.

(5) However, the decision-maker must not simply assume that proposed mitigation will be successful; rather it must address whether there are any uncertainties and form a judgment on whether the measures are likely to be effective.

27. These principles largely derive from Gillespie, which concerned a proposed residential development on a site acknowledged to be contaminated. The Secretary of State concluded that an EIA was not required, on the basis that a planning condition requiring a detailed site investigation and remediation scheme to be approved before development commenced would address the contamination ([19] - [21]).

28. All three members of the Court gave concurring judgments:

(1) Pill LJ held that a decision-maker is not required to ignore proposed remedial measures ([36] - [37]). But the decision-maker must consider the extent of the investigation that has been carried out, the nature of the proposed remedial measures, *"the extent to which those measures have been particularised, their complexity and the prospects of their successful implementation"* ([39]). These contingencies must be considered and *"it cannot be assumed that at each stage a favourable and satisfactory result will be achieved"* ([41]).

(2) Laws LJ stated the principle in these terms (at [46]):

"…Where the Secretary of State is contemplating an application for planning permission for development which, but for remedial measures, may or will have significant environmental effects, I do not say that he must inevitably cause an EIA to be conducted. Prospective remedial measures may have been put before him whose nature, availability and effectiveness are already plainly established and plainly uncontroversial; though I should have thought there is little likelihood of such a state of affairs in relation to a development of any complexity. But if prospective remedial measures are not plainly established and not plainly uncontroversial, then as it seems to me the case calls for an EIA. If then the Secretary of State were to decline to conduct an EIA, as it seems to me he would pre-empt the very form of enquiry contemplated by the Directive and Regulations; and to that extent he would frustrate the purpose of the legislation."

(3) Arden LJ agreed. Proposed measures can be taken into account if they *"…are of themselves unlikely to have significant effects on the environment because, for example, they are of limited impact or well-established to be easily achievable within the process of the development"* (at [49]).

29. Gillespie was applied by Lang J in Swire. That case concerned the residential redevelopment of a site affected by BSE-related contamination. The Secretary of State concluded that conditions requiring further investigation and remediation would address the contamination. Lang J held that the Secretary of State had committed the same error as in Gillespie ([105]) and quashed the decision ([111]). At [106], she said:

"There was a lack of any expert evidence and risk assessment on the nature of any BSE-related contamination at the Site, and any hazards it might present to human health. The measures which might be required to remediate any such contamination and hazards had not been identified. This was a difficult and novel problem for all parties to address. It was acknowledged by the Council in its screening opinion, acting on the advice of the Environmental Health Practitioner, that specialist advice would be needed to consider the remediation of prions associated with CJD/BSE. Therefore condition 21 merely referred to the requirement that a written method statement for the remediation of land and/or groundwater would have to be agreed by the Council without any party knowing what the remediation for BSE-related infection might comprise. The Defendant adopted the Council's approach in his screening opinion. But because of the lack of expert evidence, the Defendant was simply not in a position to make an "informed judgment" (per Dyson LJ in Jones, at [39]) as to whether, or to what extent, any proposed remedial measures could or would remediate any BSE-related contamination. It follows that when the Defendant concluded that "he was satisfied that the proposed measures would satisfactorily safeguard and address potential problems of contamination" and that "the proposed measures would safeguard the health of prospective residents of

the development", he was making an assumption that any measures proposed under condition 21 would be successful, without sufficient information to support that assumption…"

30. The Screening Direction failed to adopt the approach set out by Gillespie and Swire in three main respects. Taking these in turn:

31. First, in relation to the existing contamination risks at the Site.

32. The Written Statement addresses existing conditions, and also new risks that might arise from the operation of the Development.

33. In terms of the former, the only geo-environmental ground conditions assessment before the Secretary of State was a desk study, with no on-site ground data. No intrusive investigation had been carried out, there was no remediation strategy, and no human health risk assessment has been undertaken.

34. The Written Statement records that the site contains made ground potentially containing contaminants including ACM; that an Asbestos Demolition Survey *"…identified the presence of ACM"*; and that targeted investigation should determine the extent of contamination *"in the areas of known made ground and the area where munitions were handled and stored."* Reliance is also placed on a *"fully intrusive refurbishment asbestos survey"* and an *"Asbestos Management Plan"*. In terms of potential Unexploded Ordnances, this *"…cannot be ruled out…"*, and reliance is placed on *"industry standard health and safety measures*" and further *"Detailed Risk Assessment"*.

35. The Written Statement concludes as follows:

> *"While there are potential risks of land contamination, the risk is not considered to be significant given the targeted surveys to be implemented prior to any construction activities take place and outlined mitigation measures during construction."*

36. That reasoning betrays the same error of approach as set out in Gillespie and Swire. In particular:

    (1) The Written Statement does not consider the likelihood or nature of the remediation that would be required to make the Site safe: see Gillespie at [39]. That error was particularly egregious in the context of a 10-hectare former Central Ordnance Depot with confirmed ACM, unsurveyed areas, and a history of munitions handling which is proposed for occupation by 1,256 residents.

(2) There is no consideration of the likely complexity of the remediation or its prospects of success: see Gillespie at [39]. The likely remediation required, and the techniques to do so, are clearly neither *"plainly established"* nor *"plainly uncontroversial"* (Laws LJ at [46]).

(3) Nor is there any consideration of whether the remediation works themselves (likely to include the removal and disposal of contaminated material) might themselves give rise to significant environmental effects. As Pill LJ put it in Gillespie (at [39]): *"Consideration must also be given, where appropriate, to the prospect of adverse environmental effects in the course of the development, even if of a temporary nature, as well as to the final effect of the development."*

37. In short, there is no engagement with whether the proposed measures are likely to be effective, still less any assessment of the matters set out by Pill LJ in Gillespie at [39]: namely the extent to which the measures have been particularised, their complexity, the prospects of their successful implementation, and the prospect of adverse environmental effects in the course of the Development itself.

38. Nor could that assessment have been lawfully carried out on the material available. Until the future surveys are carried out, it is not known what contaminants are present across the site, at what concentrations, whether they pose a risk to human health, or what remediation is required. The Secretary of State was in the same position as in Swire: simply not in a position to make an "informed judgment" as to whether the proposed measures could or would address the contamination ([106]).

39. Second, in relation to ecology. The Preliminary Ecological Appraisal ("PEA") was based on a single walkover exercise which took place outside the optimal survey window. As it records:

> *"To determine presence or likely absence of protected species usually requires multiple visits at suitable times of the year. This survey focuses on assessing the potential of the site to support species of note, which are considered to be of principal importance for the conservation of biodiversity with reference to those given protection under UK or European wildlife legislation, from only a single visit. This report cannot, therefore, be considered a comprehensive assessment of the ecological interest of the site. However, it does provide an assessment of the ecological interest present on the day the site was visited and highlights areas where further survey work may be recommended."*

40. Notwithstanding this, it found habitats with potential to support a number of species, including protected and notable species. As set out at section 5:

> *"The site included habitats which are suitable several protected and notable species. To fully inform avoidance and mitigation measures, and any licensing requirements, targeted surveys are recommended for hazel dormouse, Barn Owl, breeding birds, GCN, reptiles and terrestrial invertebrates".*

41. None of these surveys had been carried out at the date of the Screening Direction.

42. The Written Statement concludes – with emphasis added:

> *"The proposed construction works mainly involves installation of prefabricated modular units, intensive construction activities are expected to be minimal and short in duration. The applicant states that site clearance will be avoided wherever possible and kept to a minimum where necessary. <u>Effects on identified ecological sites will be further minimised through the implementation of a CEMP incorporating ecological controls, hence the effects are unlikely to be significant during construction phase.</u> No areas of Priority Habitat or otherwise designated sites will be lost or harmed due to the proposed development."*

43. That conclusion again demonstrates the same error as in <u>Gillespie</u>. The content of any such Construction and Environmental Management Plan ("CEMP") depends on the results of the outstanding surveys. There is no engagement with the nature of the proposed measures, the complexity of the task, or the prospects of success (per Pill LJ at [39]). The PEA itself notes that the mitigation measures to be deployed will depend on the results of the surveys which have not been carried out. The Written Statement merely (and unlawfully) assumes that a measure (the CEMP) whose content is entirely unknown will produce a favourable result. The Secretary of State was, again, simply not in a position based on the material to assess the likely effectiveness of those measures – which had not, and could not, be identified.

44. <u>Third</u>, in relation to foul drainage. The Written Statement records that there will be an increase in sewerage discharge from the Site, and that *"whether the existing sewer has sufficient capacity to accept the sewerage generated by the Proposed Development is yet to be confirmed at later design stage."*

45. It notes that tankering of foul effluent will be implemented as an interim measure during the initial phase, and that it is anticipated foul water could be taken to Bicester Wastewater Treatment Works, subject to confirmation that sufficient capacity is available.

46. It concludes - with emphasis added:

> *"Given the tankered foul water will be managed by a licensed contractor and disposed to a licenced facility, and the implementation of appropriate measures in the event of any spillage and leakage, any impact pathway between the proposed development and Arncott Bridge Meadows SSSI is unlikely. <u>Although the final foul water management strategy has yet to be confirmed, on the basis that the final strategy will be designed not to be detrimental to the interest features of the concerned SSSI, significant effect is unlikely in this regard.</u>"*

47. That conclusion is again unlawful applying the correct approach set out in <u>Gillespie</u> and <u>Swire</u>. Managing the foul water from 1,256 residents on a site with no confirmed sewer capacity, in proximity to a SSSI, is

neither "plainly established" nor "plainly uncontroversial" (Laws LJ at [46]). The Written Statement does not engage with that complexity at all. It simply records that a permanent strategy does not yet exist, and then assumes that when it is devised it will avoid harm. There is no assessment of what the foul water management measures would likely involve, how they would be delivered, or whether they are likely to succeed. As Pill LJ held in Gillespie at [41], "it cannot be assumed that at each stage a favourable and satisfactory result will be achieved."

48. In each of these three respects, individually and cumulatively, the Secretary of State adopted the approach held to be erroneous in Gillespie and Swire: identifying a future measure and treating it as a sufficient basis for a negative screening decision, without any assessment of whether that measure is likely to be effective.

Ground Two: Failure to assess the development proposed

49. There is a material discrepancy between the development screened by the Secretary of State and the Development for which planning permission is sought. In short: the Written Statement was prepared on the basis of buildings no taller than 6 metres; the Parameters Site Plan submitted for approval permits buildings up to 12 metres.

50. A screening direction under regulation 5(3) of the EIA Regulations must determine whether the development for which planning permission is sought is or is not EIA development. Plainly, in order to do this, it must screen the development that is actually proposed.

51. The Written Statement states in terms: *"This assessment is carried out on the basis that the maximum height of the modular units is no more than 2-storey (i.e. 6m height maximum)."*

52. However, the Parameters Site Plan (Drawing BIC-DR-AR-100107-P01), submitted for approval as part of the UCD Application, defines the development parameters. It identifies an

"Operational Development Zone up to 12m high measured from existing site levels".

53. The UCD Application was submitted on 6th July 2026. The Screening Direction was not issued until 26th August 2026. The Parameters Site Plan was accordingly before the Secretary of State throughout the period in which the Screening Request was under consideration.

54. Since the maximum building height that would be permitted by the UCD Application, if approved, is twice the height on which the screening was conducted, the Screening Direction assessed the effects of a materially different development to the one proposed. That is a clear legal error.

55. Moreover, the Planning Proposal Statement confirms at paragraph 1.9 that the UCD Application adopted a "Rochdale Envelope approach" and *"assesses maximum parameters to ensure the reasonable worst-case development scenario has been assessed."* For the reasons set out above, the screening was therefore not conducted on the basis of the applicant's own stated worst case.

56. In R. (CBRE Lionbrook (General Partners) Ltd) v Rugby Borough Council [2014] EWHC 646 (Admin), Lindblom J (as he then was) held that, where there is a difference between what was screened and what is proposed, a screening opinion will only remain valid if that difference does not *"give rise to a realistic prospect of a different outcome if another formal screening process were to be gone through"* (at [47]).

57. Whilst that test was concerned with changes made to a proposal after screening, the principle must apply with at least equal force where, as here, the screening direction itself proceeded on a wrong factual basis.

58. Here, there is a "realistic prospect" of a different outcome if the Development proposed had been accurately assessed. In particular, the height of the proposed buildings bears directly on matters such as landscape and visual impact, noise, and the size and design of the development. These are all criteria set out in Schedule 3 of the EIA Regulations which the Written Statement itself recognised as being relevant.

59. Given that this is a flat rural site with a number of sensitive receptors in close proximity, there is a realistic prospect that a screening exercise conducted on the basis of structures up to 12 metres high would reach a different conclusion to one conducted on the basis of a maximum 6 metre height.

60. Finally, we note that the Planning Proposal Statement lists as a "Plan for Approval" the "Site Parameters Plan (Drawing no. BIC-DR-AR-100107-P01 Rev. 2)" (emphasis added). The version of this plan published on the UCD Application website is not Rev 2. It is assumed that Rev 2 contains the same 12 metre parameter. If it does not, a separate legal error arises. That is because consultees will have been responding to the consultation on the basis of the Parameters Site Plan that was published. The consultation process would need to be re-opened so that consultees can be consulted on the development that is actually proposed.

Ground Three: Breach of regulation 64 of the EIA Regulations

61. Regulation 64 of the EIA Regulations provides as follows:

"(1) Where an authority or the Secretary of State has a duty under these Regulations, they must perform that duty in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where an authority, or the Secretary of State, is bringing forward a proposal for development and that authority or the Secretary of State, as appropriate, will also be responsible for determining its own proposal, the relevant authority or the Secretary of State must make appropriate administrative arrangements to ensure that there is a functional separation, when performing any duty under these Regulations, between the persons bringing forward a proposal for development and the persons responsible for determining that proposal."

62. In this case, the Home Office submitted the Screening Request and the Secretary of State for MHCLG issued the Screening Direction. Whilst these are separate departments of state, both departments form part of His Majesty's Government. The Development has been designated as nationally important and urgent by that same Government.

63. Regulation 64(2) requires appropriate administrative arrangements to ensure functional separation between the persons bringing forward a proposal and the persons responsible for determining it.

64. The question whether that obligation is engaged where the applicant and the screening authority are different Secretaries of State within the same government is, we understand, one of the issues raised in R. (Crowborough Shield Community Interest Co) v Secretary of State for the Home Department (CO/735/2026), in which judgment is awaited following a hearing in July 2026.

65. Further, regulation 64(1) required the Secretary of State for MHCLG to perform her screening duty objectively and to avoid a situation giving rise to a conflict of interest. That obligation is freestanding: it applies whenever the Secretary of State has a duty under the EIA Regulations, and does not depend on the same person or body being both applicant and decision-maker.

66. In the circumstances described above, the screening was carried out in a situation giving rise to a conflict of interest within the meaning of regulation 64(1). No evidence has been published to show what steps, if any, were taken to discharge the obligation under that provision.

67. In that context, we invite the Secretary of State to confirm:

    (1) Whether any specific administrative or handling arrangements under Regulation 64 were adopted for the handling of this Screening Request;
    (2) If so, what those arrangements were and whether they were published; and

(3) If not, what arrangements the Secretary of State relies upon as satisfying the requirements of Regulation 64.

68. We reserve the right to develop this ground further in light of the judgment in Crowborough and the Secretary of State's response to the requests above.

Details of Legal Advisors Dealing with this Claim

69. Khift Ltd, Beggars Roost, Fore Street, Morchard Bishop, Devon EX17 6NX (FAO Tim Taylor)

70. Counsel: Sasha White KC and Andrew Parkinson, Landmark Chambers.

Details of Interested Parties

71. The Secretary of State for the Home Department, 2 Marsham Street, London SW1P 4DF

72. Cherwell District Council, 39 Castle Quay, Banbury Oxon OX16 5FD

Request for Further Information

Natural England

73. The Written Statement refers to, and relies on, Natural England's advice of 23rd July 2026 and subsequent clarifications dated 11th and 13th August 2026. That latter correspondence has not been published alongside the Screening Direction or on the GOV.UK application page.

74. Therefore, please provide copies of the following:

(1) Natural England's response of 11th August 2026; and

(2) Natural England's response of 13th August 2026, said to confirm that it was *"content for the proposed development to move forward without damaging the interest features of the concerned SSSI"*.

75. In the absence of that correspondence, we are unable to verify whether Natural England's position has been accurately reported in the Written Statement or whether its advice was subject to qualifications or conditions not reflected in the Screening Direction. As this information should be readily available, please provide copies within 7 days.

Ecology and Habitats Data

76. The PEA records that its desk study data was obtained from the Buckinghamshire and Milton Keynes Environmental Records Centre ("BMERC"). The Site is located in Cherwell District, Oxfordshire. The local environmental records centre for Oxfordshire is the Thames Valley Environmental Records Centre ("TVERC"), not BMERC.

77. Please confirm:

    (1) Whether the Secretary of State was aware, at the date of the Screening Direction, that the PEA's desk study had not consulted the local environmental records centre for the area in which the Site is located;

    (2) What ecological data or site-specific survey information was used to inform the Habitats Regulation Assessment Screening, which lists only two internal Home Office documents as its information sources and does not reference the PEA, TVERC, BMERC, or any site-specific ecological survey.

78. The Proposed Claimant reserves the right to amend its proposed grounds in light of your response.

Inter-departmental correspondence

79. The Written Statement contains conclusions and assessments that go beyond the material submitted with the Screening Request.

80. In order to understand the basis on which the Screening Direction was made, please provide copies of all correspondence and communications (including emails and notes of meetings or telephone calls) between the Home Office (or any person acting on its behalf) and MHCLG (including the Planning Casework Unit) relating to:

    (1) The Screening Request and/or the Screening Direction;
    (2) Any additional or supplementary information provided by or on behalf of the applicant after the submission of the Screening Request on 3rd July 2026 and before the issue of the Screening Direction on 26th August 2026.

81. This request is made for two reasons. First, it is necessary to identify the evidential basis on which the Secretary of State reached the conclusions in the Written Statement, particularly where those conclusions are not supported by, or are inconsistent with, the material submitted with the Screening Request. Second, it is relevant to the question of functional separation under regulation 64 of the EIA Regulations and to whether the screening was conducted objectively and without a conflict of interest.

What the Defendant is requested to do

82. Either (i) consent to the Proposed Claimant's application for Judicial Review; and (ii) pay the Proposed Claimant's costs of and relating to this prospective claim.

83. Or alternatively, (i) withdraw the Screening Direction; (ii) suspend the current consultation period, pending the issue of a new screening direction and (iii) issue a fresh screening direction following a lawful reconsideration of the Screening Request and (iv) pay the Proposed Claimant's costs of and relating to this prospective claim.

Costs

84. If the claim proceeds the Proposed Claimant will apply for a protective costs order ("PCO") pursuant to CPR 46.26 on the basis that the claim is an environmental matter falling within the scope of the Aarhus Convention. If you disagree this is an Aarhus matter or the making of a PCO please give your reasons.

Address for Reply and Service of Court Documents

85. Khift Ltd, Beggars Roost, Fore Street, Morchard Bishop, Devon EX17 6NX (FAO Tim Taylor). Service will be accepted by email: tim@khift.com.

Proposed Reply Date

86. We request a response within 14 days, in accordance with the Pre-Action Protocol for Judicial Review. If no response is received within 14 days, the Claimant will proceed to issue proceedings without further notice.

Yours faithfully

Khift Ltd

KHIFT LTD

cc denzil.turbervill@cherwell-dc.gov.uk (by email only)