

# RICHARD BUXTON

solicitors

environmental • planning • public law

01223 328933

[lfoster@richardbuxton.co.uk](mailto:lfoster@richardbuxton.co.uk)

[agisby@richardbuxton.co.uk](mailto:agisby@richardbuxton.co.uk)

Halton Borough Council  
Municipal Building  
Kingsway Widnes  
Cheshire  
WA8 7QF

Our ref: HAL1/5 (LPF)

Your ref: 25/00346/REM

24<sup>th</sup> February 2026

Attn: Mark Reaney, Director – Legal and Democratic Services

**BY EMAIL:** [mark.reaney@halton.gov.uk](mailto:mark.reaney@halton.gov.uk)

Copy to: [legalservices@halton.gov.uk](mailto:legalservices@halton.gov.uk)

## PRE-ACTION PROTOCOL LETTER THIS LETTER REQUIRES YOUR URGENT ATTENTION

Dear Sirs

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

### **Proposed Claimant**

2. We are instructed by Halebank Parish Council at 44 Halegate Road, Widnes, Cheshire, WA8 8LZ ("the Claimant").

### **Proposed Defendant**

3. Halton Borough Council ("the Council").

### **Decision to be challenged**

4. The decision of Halton Borough Council ("the Council") dated 6 February 2026 to grant reserved matters approval ("the RMA") pursuant to outline planning permission ref. 22/00423/OUTEIA ("the OPP") for the development of 500 dwellings and associated works at Land off Hale Gate Road, Widnes, Cheshire ("the Site") (Application No: 25/00346/REM).

### **Date of Decision**

5. 6 February 2026

### **Factual Background**

6. The factual background will be well known to the Council and so is not set out in detail here. The Claimant seeks to challenge the Council's decision dated 6 February 2026 to approve the RMA (ref. 25/00346/REM) for the approval of reserved matters (layout, scale, appearance and landscaping) pursuant to the OPP for the construction of 500 dwellings and associated development at the Site. The RMA was considered and

Dale's Brewery, Gwydir Street, Cambridge CB1 2LJ

T 01223 328933 E [law@richardbuxton.co.uk](mailto:law@richardbuxton.co.uk) W [www.richardbuxton.co.uk](http://www.richardbuxton.co.uk)

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approved by the Council's Development Management Committee on 14 January 2026, following a recommendation for approval in the Officer's Report ("the OR").

### Legal Framework

7. The principles which the court will apply to challenges to decisions by local planning authorities to grant planning permission were summarised by Lindblom LJ in *R (Mansell) v Tonbridge and Malling BC* [2019] PTSR 1452 at §42. These principles are well understood and so not repeated here.

### Proposed Grounds of Challenge

8. The Claimant contends that the Council's decision is unlawful on the following grounds.

#### Ground 1: Misleading Advice Regarding the Design Review

9. In July 2025, following completion of pre-application consultation on the RMA, the Claimant wrote to the applicant to request that the RMA be submitted to a design review by Places Matter. This request was copied to the Council as can be seen from the correspondence enclosed with this letter. Places Matter provide independent design review for local planning authorities in the North West of England.
10. Independent design review is specifically encouraged by the Planning Practice Guidance ("PPG") for major development such as that proposed by the RMA and OPP.<sup>1</sup> Paragraph 138 of the NPPF also requires local planning authorities to have regard to the recommendations made by design review panels.
11. The Claimant's request was refused by the applicant. In its subsequent consultation response, dated 19 November 2025, the Claimant identified the absence of any independent design review and explained that, in its view the proposed development was "an exercise in design blandness and depressing predictability with its standardised house types", which would not comply with the Council's Housing Delivery and Allocations Plan 2014-37 ("DALP") Policy CS(R)18 on design quality.
12. The OR addressed the absence of any design review as follows, stating:

*The request is noted, however the first formal comment from the Parish Council was its objection dated 17 November 2025. No earlier request for design review was recorded prior to submission and the LPA is required to meet reasonable deadlines for determination without causing unnecessary delays. As the application was received on 12 August, it would be unreasonable to delay the application at this stage for a design review.*

13. This advice was materially misleading. As explained above, the Claimant did in fact request a design panel review in July 2025, before the application was submitted. The OR's statement that "no earlier request for design review was recorded prior to submission" was factually inaccurate. This inaccuracy was material because it led Committee members to believe that the reason no design review could be undertaken

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<sup>1</sup> See Paragraph: 017 Reference ID: 26-017-20191001

was because the request had been made too late, when in fact it had been made at an appropriate time. The misleading advice may have caused Committee members to dismiss the design review point without proper consideration.

#### Ground 2: Failure to Have Regard to the Housing Strategy

14. The Council's Housing Strategy was adopted prior to the determination of the RMA on 14 January 2026. The Housing Strategy recommends a tenure split where affordable housing is provided by a development of 50% social rent, 27% affordable rent, and 23% affordable home ownership. It states (p.22) that:

*Halton already benefits from a relatively strong supply of social housing compared to many areas, but we know the demand for genuinely affordable homes remains high. That is why we are committed to delivering more social housing for local people, alongside other affordable options, to create balanced, sustainable communities.*

15. By contrast, the RMA proposes a tenure split of 74% affordable rent and 26% shared ownership, with no social rent provision.
16. Although Policy CS(R)13 of the Local Plan sets out a default tenure split, paragraph 2 of that policy expressly provides that a different split may be justified by evidence, including sources such as "*updated Strategic Housing Needs Assessment, local Housing Registers, agreed Regeneration Masterplans, etc*". The Housing Strategy, which was based on the Housing Needs Assessment 2025, plainly constitutes relevant evidence which could have informed a departure from the policy default. The Housing Strategy was identified by the Claimant in its representations as a key consideration.
17. In these circumstances, the Housing Strategy was so obviously material as to require direct consideration by the Council. However, the OR does not refer to it in its list of material considerations and nor does it engage with the Strategy in the section of the report dealing with housing mix, or at all. The OR merely accepts that the proposal "*would comprise 26 shared ownership properties and 74 affordable rent properties*" and that it would therefore comply with Policy CS(R)13. It is therefore clear that officers did not consider whether any evidence justified a departure from that default tenure mix and in particular whether the recently adopted Housing Strategy amounted to such evidence. This was an unlawful failure to have regard to a material consideration.

#### Ground 3: Failure to Impose Conditions Despite the Officer's Report Recommending Such Conditions

18. A local planning authority will act unlawfully where it fails to impose planning conditions which it has advised members are required to make the development acceptable: *R (Wild Justice) v Pembrokeshire Coast NPA* [2025] EWHC 2249 (Admin), §99.
19. The Claimant has identified at least three instances where the OR advised that conditions were required to render the development acceptable, but where no such conditions appear in the RMA approval:
- a. Landscaping details: The OR states that "*A landscaping scheme has been submitted however the Council's Landscaping Officer has suggested that additional details are required for the hard landscaping elements of the proposal*

along with finished floor levels to ensure the development is satisfactorily designed. A condition will be imposed to this effect." However, the RMA conditions (conditions 5 and 6) only require landscaping works to be carried out in accordance with plans already approved. They do not require the submission of any further landscaping details as recommended by the Landscaping Officer.

- b. Drainage/sewers: The OR states that *"United Utilities have raised concerns regarding the proposed drainage layout, however this can be dealt with by a suitably worded planning condition."* United Utilities' concern related to the proposed sewer diversion, which was said to have too many 90 degree bends. However, the RMA does not contain any conditions relating to drainage or sewerage layout. Whilst condition 15 of the OPP relates to sewers, its focus is on protection of sewers from construction damage, not on the layout of the drainage system which was United Utilities' concern.
- c. Play area surfacing: The OR states that *"The development proposes 3 LEAPs (Local Equipped Areas of Play). The Council's Open Spaces Officer has suggested improvements could be made to the proposed surfacing for these areas, however this can be dealt with by condition."* However, no such condition appears in the RMA. Condition 1 merely requires the development to be carried out in accordance with the play area plans, which does not address the Open Spaces Officer's recommendation for improved surfacing.

20. Please confirm whether the Council accepts that these conditions were not imposed as recommended and, if so, explain the reasons for this. If the Council considers that the matters are adequately addressed by conditions attached to the OPP, please explain which specific conditions apply and how they address the concerns identified in the OR.

#### **Details of Legal Advisors Dealing with this Claim**

21. Richard Buxton Solicitors  
Dale's Brewery  
Gwydir Street  
Cambridge CB1 2LJ  
Attn. Lisa Foster & Adele Gisby

Tel: 01223 328933

Email: [lfoster@richardbuxton.co.uk](mailto:lfoster@richardbuxton.co.uk); [agisby@richardbuxton.co.uk](mailto:agisby@richardbuxton.co.uk)

#### **Counsel**

22. Ben Fullbrook, Landmark Chambers

#### **Details of Interested Party**

Keepmoat Homes Limited  
c/o Mr Henry Mackenzie  
Lichfields  
Ship Canal House  
98 King Street

Manchester  
M2 4WU

Email: [henry.mackenzie@lichfields.uk](mailto:henry.mackenzie@lichfields.uk)

**Details of Information Sought**

23. You are required to make full and frank disclosure in judicial review proceedings.
24. We therefore require full information on how the Council has dealt with each of the points raised above.

**What the Council is requested to do**

- (i) Consent to the Claimant's application for Judicial Review; and
- (ii) Pay the Claimant's costs of and relating to this prospective claim

**Costs**

25. If the claim proceeds the Claimant will apply for a protective costs order pursuant to CPR 45.43 on the basis that the claim is an environmental matter. Venn v SSCLG [2015] 1 WLR 2328. 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**

26. Richard Buxton Solicitors  
Dale's Brewery  
Gwydir Street  
Cambridge CB1 2LJ

Attn. Lisa Foster & Adele Gisby

Email: [lfoster@richardbuxton.co.uk](mailto:lfoster@richardbuxton.co.uk); [agisby@richardbuxton.co.uk](mailto:agisby@richardbuxton.co.uk).

**Proposed reply date and service by email**

27. We request a response within 14 days by 4pm 10<sup>th</sup> March 2026.
28. Please also confirm if the Council is willing to accept service by email in the event the claim is lodged.

Yours faithfully



**RICHARD BUXTON SOLICITORS**