

ADDLESHAW GODDARD

Our reference: AQB/CRW/43283

Your reference: Audley End Railway Station, Wendens Ambo

6 February 2013

FOR THE ATTENTION OF ANDREW TAYLOR, ASSISTANT DIRECTOR PLANNING AND BUILDING CONTROL

Uttlesford District Council
Council Offices
London Road
Saffron Waldon
Essex
CB11 4ER

Dear Sirs

Localism Act 2011 and Assets of Community Regulations 2012 – Audley End Railway Station

Further to our letter of 1 February we confirm we are instructed by Network Rail Infrastructure Limited (Network Rail) and this letter is, on its behalf, an objection to the listing of Audley End Railway Station as an asset of community value on the following grounds. In this objection reference to "The Regulations" means the Assets of Community Value (England) Regulations 2012, reference to The Localism Act means the Localism Act 2011 and reference to The Planning Act means the Town and Country Planning Act 1990 as amended.

1 Non compliance with Regulation 8

Regulation 8 of The Regulations requires the local authority to take all reasonable and practical steps to notify the owner and, where the owner is not the freeholder, the holder of the freehold of land being considered for listing as an asset of community value. Network Rail is the freehold owner of Audley End Railway Station. Given that the land is an operating railway station Uttlesford District Council should have concluded that Network Rail was the owner. Despite this Network Rail received no notification whatsoever that listing of the station was being considered. Network Rail only discovered that the railway station was being considered for listing by chance when it looked at the council's website. The Council has therefore not complied with Regulation 8.

2 The railway station is statutorily barred from being listed

Regulation 3 of The Regulations states that any building or land specified in schedule 1 to The Regulations is not land of community value and therefore cannot be listed. Schedule 1 of The Regulations includes at paragraph 4 "Operational Land" as defined in section 263 of The Planning Act. Section 263 of the Planning Act defines Operational Land in relation to Statutory Undertakers as land which is used for the purpose of carrying on their undertaking and in which an interest is held for that purpose. Section 262 of The Planning Act defines Statutory Undertakers as "... persons authorised by any enactment to carry on any railway..." Therefore it is very clear that the railway station is Operational Land owned by Network Rail, a

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Statutory Undertaker, for the purposes of its undertaking – the railway. As such the Audley End Railway Station falls within the list of statutory exclusions in schedule 1 to The Regulations and cannot therefore be listed as an asset of community value. The Council has no option but to refuse to list the station.

It is understood that the Council will consider whether or not to list the railway station as an asset of community value in response to the request from Wendens Ambo Parish Council at the cabinet meeting on Tuesday 19 February. Please confirm by return that this detailed objection will be reported to the cabinet members in full and that given the content of this letter any recommendation to members will be not to list the Audley End Railway Station as an asset of community value.

Yours faithfully



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Dear Sirs

Localism Act 2011 and Assets of Community Regulations 2012 – Audley End News

Further to our letter of 1 February we confirm we are instructed by Network Rail Infrastructure Limited (Network Rail) and this letter is, on its behalf, an objection to the listing of premises known as Audley End News as an asset of community value on the following grounds. In this objection reference to "The Regulations" means the Assets of Community Value (England) Regulations 2012, reference to The Localism Act means the Localism Act 2011 and reference to The Planning Act means the Town and Country Planning Act 1990 as amended.

1 Non compliance with Regulation 8

Regulation 8 of The Regulations requires the local authority to take all reasonable and practical steps to notify the owner and, where the owner is not the freeholder, the holder of the freehold of land being considered for listing as an asset of community value. Network Rail is the freehold owner of Audley End Railway Station of which Audley End News is a part. Given that the land is part of an operating railway station Uttlesford District Council should have concluded that Network Rail was the owner. Despite this Network Rail received no notification whatsoever that listing of Audley End News was being considered. Network Rail only discovered that Audley End News was being considered for listing when it was forwarded a copy of the notice from the Council to Audley End News, occupiers of the property. The Council has therefore not complied with Regulation 8.

2 Audley End News is statutorily barred from being listed

Regulation 3 of The Regulations states that any building or land specified in schedule 1 to The Regulations is not land of community value and therefore cannot be listed. Schedule 1 of The Regulations includes at paragraph 4 "Operational Land" as defined in section 263 of The Planning Act. Section 263 of the Planning Act defines Operational Land in relation to Statutory Undertakers as land which is used for the purpose of carrying on their undertaking and in which an interest is held for that purpose. Section 262 of The Planning Act defines Statutory Undertakers as "... persons authorised by any enactment to carry on any railway..."

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Therefore it is very clear that the railway station is Operational Land owned by Network Rail, a Statutory Undertaker, for the purposes of its undertaking – the railway. It is also very clear that Audley End News is an integral part of the station and not in any way a separate entity in its own right. Audley End News is not the principal use of the property. The principal use is as a Railway Station, which cannot be listed for the reasons given. As an ancillary use Audley End News cannot be listed in its own right. This position is further reinforced by the definition of Land of Community Value in section 88 of The Localism Act which requires consideration of the principal use only when considering whether land can constitute an Asset of Community Value and expressly excludes ancillary uses. Audley End News is therefore an ancillary part of land that falls within the list of statutory exclusions in schedule 1 to The Regulations and cannot therefore be listed as an asset of community value. The Council has no option but to refuse to list the Audley End News.

It is understood that the Council will consider whether or not to list the Audley End News as an asset of community value in response to the request from Wendens Ambo Parish Council at the cabinet meeting on Tuesday 19 February. Please confirm by return that this detailed objection will be reported to the cabinet members in full and that given the content of this letter any recommendation to members will be not to list Audley End News as an asset of community value.

Yours faithfully



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1 February 2013

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Uttlesford District Council
Council Offices
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CB11 4ER

Dear Sirs

Localism Act 2011 and Assets of Community Regulations 2012 – Audley End News

We are instructed by Network Rail Infrastructure Limited who own an interest in the property occupied by Audley End News, Wendens Ambo at Audley End Station (the "**Property**").

We understand that the Council have received a request to designate the Property as an asset of community value although our client was not served with notice of this request. Please accept this letter as our client's holding objection to the request.

We will be submitting a detailed objection shortly and in this respect could you please let us know by return any critical date by which any objection should be received by the Council.

Please also note that Greater Anglia also have an interest in the Property and are aligned with our objection to it being listed as an asset of community value.

Please acknowledge receipt of this letter by return.

Yours faithfully



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SCANNED

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