

Thames Farm Action Group

M. Stone Esq
Chief Executive,
SODC
By Email only

2nd January 2021

Dear Mr Stone,

Complaint SODC ref 1477/1 - Thames Farm Reading Road, Lower Shiplake P20/S2808/DIS and P20/S1303/NM

I refer to the letter of 23 December from [REDACTED] regarding the above matter in response to my complaint to SODC.

To reiterate, my correspondence with SODC is made on behalf of in excess of 1100 residents and Council Tax payers who have signed the petition that I forwarded at the time of my initial correspondence with you and Councillor Bretherton over this matter. I am Chair of the steering group known as the Thames Farm Action Group (TFAG) formed to take this matter forwards on behalf of Shiplake residents on whose behalf I am also writing.

We were very concerned that having made a complaint to yourself which also happened to have a petition with it, SODC referred this complaint to [REDACTED], who is a key executive within the Planning Department and who is already personally involved in this matter, as evidenced by the FOI request and responses of 11 November. I raised this concern with [REDACTED] office at the time as it would be wholly inappropriate for any complaint to be handled by someone already personally involved in the matter, as they could hardly be expected to deal with such a complaint in an impartial and independent way. I was promised that that issue would also be investigated, and that SODC would revert, but to date no one has done so. I have now received [REDACTED] response to my complaint dated 23 December, albeit she has clearly been personally involved in the subject matter in a very active way.

SODC's complaints policy is defective if a complaint is to be investigated by any persons directly involved in the matter being complained of, as I pointed out at the time, citing that as a second complaint, but to which I have not had a response other than as above.

I followed up my earlier correspondence to [REDACTED], on 20 December with a very detailed analysis of why SODC should reconsider its position on 3 key matters. I had hoped that whilst the matter was under review, the contents of that email would also have been considered, as it provided a detailed analysis and critique of the situation, but alas that did not happen. Instead, the response I got from E [REDACTED] seemed to suggest that she may not even have fully read the contents of that note as she effectively dismissed it by referring to this complaints process, but not actually considering the contents of the note. I will therefore deal with that further correspondence as part of this stage 2 complaint given her comments.

Turning now to the substance of the complaints, I am afraid these have not been adequately dealt with in P [REDACTED] letter, the points of complaint have not been addressed nor efforts made to resolve the issues nor have the 3 matters requested by my subsequent note been addressed.

[REDACTED] refers to the Applicant having followed legitimate processes. That is not the issue of the complaint as the complaint relates to how SODC has responded to Taylor Wimpey and also to SODC's

responsibilities to the community that is impacted by this matter. That of course is entirely the reason for Planning matters to be the subject of applications to the Planning Authority as guardians and enforcers of standards and also the legislation giving rise to those standards. [REDACTED] says that the submitted information has been “*rigorously and independently assessed by officers and expert consultees*”. We however, do not agree with that statement. The only time that such action was meaningfully taken is when residents have vociferously complained. If not for those complaints, the drainage application would have been approved on 23 October as the FOI information provided on 11 November indicates.

I now deal with each application in turn: -

Application P20/S1303/NM

I agree with [REDACTED] that the Applicant was entitled to make this request. Once received by SODC it is how this request was then dealt with that is one of the key issues here.

By the time that this application was submitted to permit carrying out access works in advance of the discharge of all other reserved matters, it was very well known that the site had major problems with the ground. It was obvious that a radical solution would be needed for ground treatment i.e. very deep grouting with concrete and ash and vibro-compaction as well as a wholly new now ‘off-site’ based method to deal with the drainage of surface water resulting from that ground treatment.

Despite this knowledge, and the fact that such a request had also been made of the Inspector that heard the original Appeal in 2017, and specifically rejected the request then, officers chose to accept this application and its treatment as a ‘minor variation’. The consequences of that action meant that:

1. No consultation of any form took place
2. The documentation of the Application was not publicised
3. The application was not visible on the Councils Planning portal. To all intents and purposes it did not therefore exist, and a search by reference number would state that it could not be found.
4. In practice the documents were filed away in the 2016 ‘Application slot’ for the original Planning Application under the original number.
5. Unless somebody actually knew of the existence of the Application (which they could not because it was not publicised correctly) you would not know to look for it nor where to look.

[REDACTED] states in her letter that it is not possible to revoke this consent. We disagree with that statement. This can be achieved via (**section 97(1), Town and Country Planning Act 1990 (TCPA 1990)**)

Complaint 1

The first complaint therefore is that none of the above should have been allowed to happen. This is a Major Development project and is being managed by a very senior individual – **Principal Major Applications Officer**. This project is large, highly controversial and should continue to be managed as a ‘Major Application’. Major Application’s must be consulted upon and both Statutory Guidance and also SODC’s own community engagement policies state this.

Furthermore, Officers were well aware the applicant had discovered sinkholes on site by Spring 2019 and thus the action they took, in Spring 2020, was in the full knowledge that the applicant would need to come forwards with a very radical intrusive form of ground treatment (on top of a class 1 aquifer supplying Henley’s drinking water) as well as a wholly different ‘on and off-site’ drainage solution with

all that that entails. It was quite irresponsible for officers to simply give consent to this change without reference to others and without any publicity. No one had any ability whatsoever to challenge these steps or the decision until it was too late, and even once approved nobody would be aware of it.

The consequences of this action are huge and officers of the calibre involved here must surely have realised that. Viz: It enabled the felling of dozens of trees along the Reading Road, undertaking millions of pounds worth of road and highway drainage works and disruption of the A4155 for a very long time. Those roads would then need to be dug up yet again for the drainage works, and in all likelihood, there would be a major delay to the rest of the project or worse still a failure of the developer to be able to develop the site with the 95 dwellings at all.

A further consequence of this decision is that the developer now states that it cannot comply with the planning condition requiring re-planting of the frontage structural landscaping tree screen as this would be too dangerous to carry out. Somehow however, felling trees and doing the road, pavement and drainage works was not too dangerous to do! The site is thus now a major eye-sore and a blot on the landscape in the countryside, entirely why the landscaping clause was drafted as it was.

Finally, a further consequence of this approval is that the developer has been able to claim that it has now lawfully commenced the entire scheme of development and so is therefore entitled to complete it. This was absolutely foreseeable as the developers next step, and would not have been possible had this Application not been approved. There would have existed flexibility for SODC to negotiate an alternative scheme of development that did not carry the same issues of an 'off-site' drainage solution and where a conventional on-site SUDS solution would have been feasible and viable, thus solving/removing this entire problem of what to do with the surface water from the site. This is the primary reason why reserved matters MUST be discharged prior to a scheme of development being commenced and is why Appeal Inspectors put these conditions in place at the outset.

Of the request to delete this requirement at the Public Inquiry, the Inspector says: -

"49. During the discussion the Appellant sought to have the condition that requires the prior approval of details relating to the reserved matters amended, to allow the construction of the new site access before the submission of the necessary details. But the specific need for the amendment has not been indicated and, given that no construction of the development could occur before approval of reserved matters and that a wide access off the A4155 already exists, the amendment sought is not necessary."

Is it really correct that a variation that was specifically not allowed by the Inspector should be capable of being granted at officer level only? Particularly given the enormous consequences of that action and the inability of any outside party to be aware of what was being done or to query those actions? Was this really a minor non material variation? What is and is not minor or material is not defined, it comes down to individual circumstances. It is hard to imagine anyone thinking, that this matter was no more than a minor non material variation, given that it permitted the entire scheme to commence and did so when it was very well understood that major changes had to be addressed in the scheme and its drainage proposals.

Complaint 2

It is a statutory requirement for SODC under Article 40 of the ***Town and Country Planning (Development Management Procedure) (England) Order 2015*** to maintain a register of applications and an index thereto to enable those who are interested to have sight of applications.

This application was not dealt with in that manner. Is it really acceptable or correct that this matter was not publicised, and was 'hidden' from normal view on the Councils Planning portal?

I now turn to the second Application:

Application P20/S2808/DIS

This is a 'reserved matters application' for the discharge of the outstanding drainage condition – no. 11 of the consent. There are 4 complaints that arise in this matter.

The condition for 'discharge', to which this application applies is:

"11. No development shall commence until a drainage strategy, detailing all on and off-site surface and foul drainage works, has been submitted to and approved in writing by the local planning authority. No discharge of foul or surface water from the site shall occur before the drainage strategy has been completed and brought into use. Reason: to safeguard the water environment and to prevent flooding of the area."

The applicant has submitted a document entitled 'Drainage Statement' with its Application of 31 July 2020, and it is their second attempt to discharge this condition. This document seeks approval to the concept of an 'off-site' solution to surface water drainage and run off and is required because the EA would not agree to the developers 'deep bore', on site proposals, since this is a protected zone 1 for underground water viz. the Aquifer.

The application that has been submitted is completely devoid of sufficient detail to enable the matter to be properly considered and has no Flood Risk Assessment (FRA) submitted with it. Furthermore, the Applicant in a meeting with TFAG on 18 December 2020, confirmed that it was reviewing all options for drainage and would not be presenting further information to SODC until spring 2021!

As the applicant may not progress the current solution/proposals at all there seems no point in maintaining this Application in place simply as a 'place holder' and to maintain previous consultations in place. This contravenes all statutory guidance on the management of applications, and there has already been a number of extensions of time granted to the application (it appears like 4) culminating in a 6-week extension on 23 October. This was to provide and consult with residents on an FRA. That period has come and gone and the applicant will not now be progressing any solution for many months whilst it reviews matters in full.

In addition, the applicant has previously made submissions to discharge conditions 5 and 6 of the permission. These details are no longer correct, as they relate to the proposed works pre the discovery of the sinkholes; the works necessary to remediate/stabilise the ground; the need for an off-site drainage solution and the changes required on site to enable that solution to be feasibly undertaken.

The Application itself is also deficient for the reasons outlined by the various consultees or 'experts' that SODC has consulted viz:

Forestry

"I have considered the position outlined in the additional information provided by the applicant on 6 October 2020 and this does not alter the view expressed in my earlier consultation response.

An Arb Impact Assessment and Arb Method Statement is required to enable an assessment of the impact on any significant off-site trees".

This has not been prepared by the applicant.

EA

"This planning application is for development we do not wish to be consulted on. Please see the attached which was issued to your council to screen applications before sending to us".

OCC (LFFA)

"The LLFA have reviewed drainage strategy document A253-R001 v10, 06 October 2020, prepared by Abley Letchford Partnership Limited and do not have any objection to the condition being discharged. However, the LPA and South Oxon Drainage Team is minded to note that this must be subject to Thames Water's confirmation that: The off-site requisition sewer is designed to Thames Water satisfaction and the ordinary watercourse, noted as point of discharge, is proven to have capacity to accommodate the run-off generated from the development for all relevant rainfall return periods, including climate change allowance at green-field run-off rates".

OCC have also commented via email to a local Councillor:

"We can assure you that the drainage scheme submitted for the discharge of the drainage condition associated with this application has and is being given full scrutinization and consideration against the required standards".

Obviously because of the lack of detail submitted as part of the application of the off-site element of the scheme, there is nothing to fully scrutinize at this time nor any proof of capacity as indicated above. The on-site design elements and implications including that of the ground treatments works will also need to be the subject of review, and this information is also not presented

SODC Drainage

"In general, it is considered that the discharge option to the Lash Brook is higher in the drainage hierarchy as this would avoid discharge to what would effectively become a combined sewer,

however as either option will be wholly adopted by Thames Water and the proposals will need to be constructed to Thames Water standards, it will be for Thames Water to decide how this discharge is best accommodated.

We would therefore recommend that this condition is not discharged until Thames Water have confirmed that the report suitably covers all off-site works requirements.

I trust the above is of assistance, however if you have any queries, please let me know".

This confirms that the condition should not be discharged until the report and detail submitted suitably covers off-site works requirements. There are no such details with the Application

Thames Water

"Thames Water are happy in principle with what has been agreed with the developer - provision of a new surface water system from the site to the Lash Brook. This is based on an 18 to 24 month timescale and as stipulated under Condition 11, no discharge from the site occurring before the drainage strategy has been completed and brought into use. If there is any change to this strategy, Thames Water would need to be consulted".

This confirms that all that has been submitted as part of the application is the concept of a new off-site surface water system. There is no off-site detailing whatsoever in the Application, only a

possible pipe route. The form of drainage for which the applicant has sought approval is already permissible as a concept or in principle under the terms of National Planning Practice Guidance. Describing one possible route which is all this application does so far as off-site work is concerned does not add anything at all, and is not sufficient to discharge the condition.

SODC Planning

1. There is no visible report or recommendation or substantiation of what SODC proposed doing before local residents complained just prior to 23 October. However, an FOI request shows that the applicant was pressing for a determination on 23 October and that until these complaints occurred, officers were about to approve the application despite the lack of information submitted with the application or an FRA. The FOI data shows that officers had a last-minute change of heart on 22/23 October when they suddenly stated that without further information the Application would be refused. This is when the FRA was first mentioned/requested.
2. There is no visible comment regarding environmental and or ecological impacts of the proposals nor the effects of on-site works to the aquifer lying beneath the site nor the effects of capturing and moving surface water from this catchment area to a different catchment area a mile away. This site clearly receives surface water from a large adjacent catchment area and the proposals will require an environmental permit (EP) and also detailed modelling of local effects none of which has happened. Until it is known if this EP would be forthcoming, and also the effects of the on-site treatment work, this application cannot and should not be considered at all.
3. There is no visible comment regarding the substantial variations that this scheme requires on site viz: Major engineering works to grout the site with cement and ash mixture to great depth and, associated vibro-compaction; omission of public realm and S.106 Agreement benefits, addition of pumping stations and associated wet and dry wells, addition of major structures on site for water catchment and storage, the use of what looks to be subterranean storage vessels, which is bad practice etc. It is wholly inappropriate and improper to consider a drainage proposal in isolation of the consequential effects of that proposal upon the rest of the scheme, or the effects on the local water table and the aquifer, as well as any other ecological and environmental effects, all of which should be dealt with as part of this application. To suggest this is not necessary because the last 40m of the scheme is to be provided by Thames Water is again wholly unacceptable. The scheme is the scheme, it is irrelevant who the contractor happens to be for any part of it.
4. There is inadequate/no detail of the necessary on-site changes brought about by the drainage concept proposed which are many and varied and include inter alia information regarding the matters above, both in terms of how they will be achieved, whether they can indeed be achieved at all, and what the consequences of carrying out that work would be either in principle or in detail.
5. Perhaps most importantly, no-where is it apparent that the Applicant has any detailed knowledge of Lashbrook nor do they or anyone else offer any evidence as to its suitability at all for the purpose proposed

Taylor Wimpey

An FRA was requested within 4 weeks of 23 October (allowing 2 further weeks for comment by consultees) – and has not been produced. This is because, the entire solution is now under review by the developer to examine alternative solutions and routes as stated in a letter to all residents of 04/12/2020, and further clarified by the meeting held on line with the applicant on 18 December, which may very well lead to a wholly different approach/ methodology/ route. This is the last of 4 previous extensions of time, 5 if one considers this one has been missed!

These proposals are in a state of flux and provide insufficient detail for the proposals to be properly considered and assessed, as specifically confirmed by the various statutory consultees above. It is also not clear where or how anyone has offered any evidence at all as to the suitability of a discharge point at all at/into Lashbrook.

The FOI data provided on 11 November, confirms however that the application was on the verge of being approved despite the lack of information of off-site works and despite the lack of a supporting FRA or numerous other hydrological issues and consequences. The only reason this approval was not given then, was because residents complained, and not because anyone involved had highlighted these many and varied deficiencies. The residents' complaints only came about because they became aware of the application and not by or through normal consultation processes, but because the matter was brought to our attention. How can this possibly be a proper way to deal with such a matter which if not for residents' intervention would have been approved by a 'behind closed door process' and with the very poor level of controls or regulatory oversight? Why does it take 100 or more residents to point out a potential risk of flooding to SODC and the deficiencies in the supplied information to bring about a change of heart by SODC's officers? The community needs to be able to trust and have confidence in the Planning system and the various control mechanisms that it contains!

The officers are supposed to be capable of being relied upon by the public at large and it should not be necessary for residents to have to go through a very long difficult and painful process simply to ensure that the matter is dealt with professionally and proficiently and to the correct standards - or worse still to find that officers are being very helpful to the developer to the point of 'fending off' the comments of the public and seemingly going out of their way to approve the developers submissions. P [REDACTED] says "*I would expect my officers to work with an applicant to find solutions*" That is one thing and is perfectly acceptable and normal; indeed it is a requirement of the Planning system as is maintaining a helpful arm's length relationship with a developer. However, the actions here go well beyond 'trying to find solutions', and there appears to be an uncomfortably close relationship and bias as evidenced by the FOI information as well as the need for residents to be forced to intervene here. The level of confusion deference and poor quality of oversight by those involved in the hydrological aspects of this matter leaves one completely dumbfounded and aghast. No one seems prepared to take responsibility here, everyone seeks to pass that responsibility on to others, to the point that it is not clear who is actually checking and validating the solution. This situation is further evidenced by P [REDACTED] defensive response to this complaint, when it is quite clear that things have gone very wrong here. SODC's planning officers are guardians of public standards and legislative controls, which is their primary responsibility, whilst still being helpful and constructive to the applicant in finding solutions to problems.

We further believe that this proposal cannot and should not be considered without the simultaneous consideration of the consequential changes to the basic development scheme which are significant and are a direct consequence of this drainage approach brought about by the discovery of the on-site sinkholes. Hence it is implicit that the drainage strategy needs to be considered as a comprehensive package.

The words of the condition once again, state:-

"11. No development shall commence until a drainage strategy, detailing all on and off- site surface and foul drainage works, has been submitted to and approved in writing by the local planning authority".

It is not sustainable if physical, hydrological, environmental or ecological changes required are unacceptable, and thus it is inconceivable that such a radically different strategy can be considered in

isolation. There are consequential impacts on a number of public realm and/or S.106 Agreement benefits all of which need to be considered together since the drainage strategy fails without any one of them being approved. This is why matters are reserved in planning permissions and why different procedures exist for truly non material and minor matters, of which this is not one. Adjusting the position or orientation of a house on a scheme is a minor non material matter. This is not!

██████ has advised that “*Application P20/S2808/DIS will remain open for Taylor Wimpey to consider their options and submit further information in 2021*”. This provides an enormous amount of latitude and knowing that the developer will not produce anything until next spring we wonder why that is?

██████ letter talks about “*openness transparency and consultation*”. SODC officers were not originally intending to consult residents on this application at all and this has only come about because of pressure from residents whom are fearful of the drainage proposals and the impacts locally on the local hydrology, the drinking water, the additional flooding that will inevitably arise in the Lashbrook area and possibly also around the site itself.

Complaint 3

For all the reasons given we do not accept that it is right or proper that SODC consider this matter by way of a reserved matters application. It needs to consider the entire solution and consequences in a single package and decide if the whole package is acceptable or not. There are very wide ramifications to the discovery of sinkholes on this site and the consequential approach required to provide ground remediation and a new approach to the system of drainage. Dealing with them piecemeal when there is a known bigger picture is again wrong and irresponsible. The Applicant needs to demonstrate that its drainage proposals are capable of being implemented in all relevant respects as outlined above. Approval of the whole ‘big picture’ is what is required in the public interest and to ensure that the Applicant does not later find that its revised proposals cannot be implemented or require other major variations to achieve

██████ letter says that “*this was not an option open to SODC*” of the process chosen by the developer to progress this matter. We disagree, **Section 73 of the 1990 Town and Country Planning Act** provides the mechanism to do this, and SODC would be very well within its rights to seek the submission in this format and with all of the detail required for the entire package to be properly scrutinised / considered. Whilst it failed to do this with the current Application, it is free to reject this Application in order to regularise matters going forwards.

The Applicant should be asked to submit all related and consequential issues simultaneously as the Planning Authority is permitted to ask for and indeed has a duty to ask for in a matter such as this.

Complaint 4

The lack of consultation on this application.

Quite obviously residents and TFAG have demonstrated that the application is defective, and that also SODC’s consideration of it has been considerably less than satisfactory. This application relates to a Major Project and should be treated as such at all times, and involve full consultation and publicity.

Complaint 5

The Applicant has received quite exceptional latitude in the consideration of this matter, and has been afforded 4/5 extensions of time on what is a second such application. It is clearly a very complex issue

which the Applicant has had well in excess of 18 months to consider, prepare for and submit its application.

Notwithstanding that time, the Application remains incomplete even as a simple discharge of reserved matters, let alone as a complex application to approve the drainage strategy as well as the other matters that will implicitly need to change to implement that strategy or that are driving this strategy.

Residents on the other hand have been offered only 14 days to respond once this application is supplemented by an FRA. Residents are not experts in Planning or Drainage (and they should not need to be). However, there is a very clear need for them to be professionally represented given the existing failure of the Planning System to perform satisfactorily and to properly consider all on and off-site issues relating to this highly complex and technical matter. Accordingly, a request was made to [REDACTED] on 7 December by our solicitor to extend the consultation period to 21 working days. This she was not prepared to approve albeit it is hard to understand why such an extension should not be granted to consider what will be a highly complex and technical package of data once received. It will be necessary to check and review the applicant's submission by professional advisors; they will need to report back to TFAG, and TFAG will need to consider, possibly consult with residents and or the Parish Council and then provide instructions to the engineer to submit a response to the consultation/report. Why is it that approval was not simply and immediately forthcoming following this simple and very reasonable request? It is hardly a controversial request and comes when such requests have been approved, and longer periods of time have been granted to the Applicant?

Complaint 6

My note to [REDACTED] of 20 December was designed to assist in understanding where defects existed in the Applicant's submissions. It had nothing to do with this complaint per se. That note appears to have been completely disregarded, despite providing a very detailed critique of the application and the consultees responses thereto. Why was it disregarded, why was it so difficult to read that document which clearly highlights the problems with this deficient application? There appears to be a strong bias in favour of the Applicant and a desire to 'fend off' the valid/questioning and requests of residents? This really is very worrying, as what we are dealing with here is a potential calamity that could easily result in huge life changing events for residents if the matter is not properly dealt with. The treatment and consideration of this application has been woefully inadequate, and the approach of officers one of doing their job despite residents, rather than in the interests of residents. There is something wrong with the culture of the organisation if this is their approach to matters.

Redress Sought

SODC's Complaints procedures requests that we say why we are dissatisfied and what we hope to achieve.

We are dissatisfied because a senior officer who is personally involved in the day-to-day administration of these applications was asked to investigate this complaint when they cannot be considered to be impartial or independent. We also do not believe the actual complaints have been addressed, the response letter is simply a series of defensive statements and justifications of actions, there is no recognition of anything wrong or how that wrong could be rectified.

What we hope to achieve, is for SODC to start listening to the valid complaints of residents, to stop trying to 'fend off' what are valid issues; to ensure that its consultees do transparently and diligently fulfil their statutory responsibilities and properly carry out a full and proper examination of the proposals and their deficiencies and do reference their own and also other statutory guidance.

Some consultees may have multiple roles in this Application and do have a vested interest. Thames Water in particular are likely to be a contractor here as well as a consultee, and so there is even more need to fully and properly scrutinize their words and proposals, as an impartial and knowledgeable authority upholding public standards for the benefit of the community at large. Statements indicating 'satisfaction with what has been discussed with the Applicant' are not acceptable and not capable of verification or audit or indeed holding parties responsible and accountable when there are problems later on.

Secondly, the permission granted in response to application P20/S1303/NM should be revoked. Whilst this may be unusual, it is perfectly possible (**section 97(1), Town and Country Planning Act 1990 (TCPA 1990)**). It is unusual because an Authority doing so runs the risk of having to pay compensation/damages to the Applicant. However, in this particular instance, the Applicant had already commenced the works without the necessary approvals and its Application was a retrospective one. It should not therefore be able to make a claim for damages or compensation, or have one upheld, as having embarked upon those works without approval it did so at its own risk, and will not therefore have suffered any loss as such.

Thirdly recognition that application P20/S2808/DIS is not a sufficiently detailed or complete application for SODC to properly consider and scrutinize the consequences of Taylor Wimpey discovering something wholly unexpected on their site i.e. sinkholes and dealing with the consequences of that discovery. Those consequences will impact the intended scheme and its associated drainage needs. That application should be rejected as having insufficient information/design/detail with it, and if Taylor Wimpey are minded to seek further approvals, to require these to be a comprehensive presentation of all of the implications of the sinkholes and the associated works proposed to remedy that situation; the drainage scenario and the other on and off-site implications via an Application under **s73 of the Town and Country Planning Act 1990**.

We look forwards to hearing from you when you have been able to investigate and respond to these matters.

Yours faithfully



Peter Boros BSc MBA former FRICS

Chairman

Thames Farm Action Group

