

Planning

HEAD OF SERVICE: ADRIAN DUFFIELD



Listening Learning Leading

Mr Peter Boros

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Our reference: PE/S0269/20

& COM S/1477/1

23 February 2021

Dear Mr Boros,

Stage two complaint: Thames Farm, Reading Road, Lower Shiplake Planning application references: P20/S2808/DIS and P20/S1303/NM

Thank you for your email and letter dated 2 January 2021 to Mr Stone, Chief Executive, in which you have requested that we escalate your concerns to stage two of our formal complaints process. I apologise for the delay in responding to you.

In accordance with our stage two complaints procedure, I have investigated your concerns.

I am aware of your general concern about the council's complaints procedure and that you consider an officer working within the Planning Service is unable to respond appropriately to your concerns about the planning process.

I am sorry to read that you therefore feel that we have failed to deal with your stage one complaint in a satisfactory way and you consider Paula Fox's response was defensive and only attempted to justify officers' actions.

I can only advise that we have followed our complaints process as published, and whilst you disagree, I am content that the officer who responded to your stage one complaint was well placed to do so. I have also discussed your procedural concern with my colleague, James Carpenter, Head of Corporate Services, who oversees our corporate policies and procedures, and he has noted the concerns you have raised.

Turning now to my own investigation into your complaint at stage 2 of our process, I can confirm that I have not been involved in these applications, but I do have an understanding of the site and the planning history.

You have provided in your correspondence a detailed critique of the way the above applications have been processed and provided details of the steps you would like to see the council taking.

You state that in your view the submitted information under the condition discharge application (P20/S2808/DIS) would have been approved if it were not for local resident's objections. I disagree, and as evidenced by the information you sought under your FOI request, the council was not able to agree the submitted information under the condition (P20/S2808/DIS) irrespective of local residents' contributions.

You have specifically raised six complaints regarding the above applications that relate to the outline permission (P16/S0970/O) which was granted on appeal in 2017, and I will respond to these in turn.

Complaint 1

I note you agree that the applicant was entitled to make a non-material amendment to condition 11 of P16/S0970/O. This sought to allow the delivery of the agreed access into the site, but no other works could commence until the drainage strategy had been approved. This approach allowed the applicant to keep the permission live, whilst further discussions continued on the drainage strategy, the only outstanding pre-commencement condition. This approach is explained in the officer report on our website and is an entirely normal planning approach.

Although you acknowledge that the council can make a judgement whether what is submitted is a non-material amendment on a case-by-case basis, you suggest a variety of reasons why, in your view, the council should not have agreed it.

In my view the request made was reasonable; a justification to keep the permission live and it did not pre-judge the drainage position. The felling of the trees and temporary disruption on A4155 would have happened in any event as part of the construction of the development. I note the Inspector, who previously considered and rejected the request to amend condition 11, advised at that time during the appeal there was no specific need for the amendment.

Circumstances in May 2020 were different as explained in the officer's report. It is important not to forget that no other development can commence until the drainage strategy is approved. As pointed out by Paula, the regulations do not require the council to undertake public consultation on non-material amendments, so there is no failure in the council's processes in dealing with this application.

Complaint 2

You comment about the council's register of applications and refer to Section 40 of the Town and Country Planning (Development Management Procedure) Order (2015).

Our online register of applications accords with the requirements by containing every application for planning permission and reserved matters. The application made in April 2020 was for a non-material amendment to a planning permission (the application is not a planning permission in its own right), which is correctly held online with the relevant planning permission. To do otherwise would be confusing and misleading.

I note that you have raised a helpful point about our search facility, and I have asked for a review of this aspect of our system.

Complaint 3

I note your view that we should not consider condition 11 as a reserved matter and suggest we should seek a submission of a Section 73 application. The council can not dictate the type of application that is made by applicants. We have a duty to process and determine any lawfully made applications submitted, as is the case here.

Complaint 4

I understand that Emma Bowerman has previously explained that 'major applications' are defined in the T&CP (Development Management Procedure) Order (2015). Non-material amendments and the discharge of planning conditions do not fall within this category but fall within the 'Other' category. As mentioned above there is no statutory requirement for the council to consult on these types of applications. We do however ensure the details are uploaded to our website in the spirit of openness and transparency.

Complaint 5

The National Planning Policy Framework, para 38. sets out how councils should approach decisions on proposed developments in a positive and creative way. Councils should work proactively with applicants to secure developments.

I note Emma has advised you that she is keeping the discharge of condition request open for Taylor Wimpey to submit their further work to the council. I also note that Emma has responded to your solicitor's request for us to reconsider our position by offering more than a 14-day consultation on any amended details that Taylor Wimpey submit.

At this stage I do not see any justification to depart from our suggested approach (14 days), particularly without knowing what is likely to be submitted and the fact that there is no legal requirement to undertake public consultation.

Complaint 6

I note you felt unhappy with Emma's response to your most recent correspondence submitted just before Christmas which you intended to be helpful. Having looked through your detailed comments, I agree with Emma's view that it did not raise any new points.

Finally, you have set out what you would like to happen, namely that the non-material amendment should be revoked and the current application regarding condition 11 should be rejected on the basis that it lacks sufficient detail.

As a matter of law, the revocation of the application is not possible, as development has commenced. As mentioned above I concluded that the non-material amendment was justified in this instance.

I also conclude that the applicant has a right to expect that my planning team to continue to work with them to find a way forward and resolve the outstanding matter.

Whilst I understand that many residents were opposed to the principle of development on the site, and would like the current condition details to be rejected as a way of preventing the development, the council is expected to work constructively to find solutions to enable the permission to proceed.

In conclusion, I am sorry you feel disappointed with the way matters have been dealt with on this site, but I hope my letter has explained the council's position.

This now concludes the council's complaints process. If you are not satisfied with my response, you can refer your concerns to the Local Government Ombudsman (LGO) via their website www.lgo.org.uk or by calling 0300 061 0614. The LGO provides a free, impartial and independent service.

Yours sincerely

A handwritten signature in black ink that reads "Adrian Duffield". The signature is written in a cursive style with a long horizontal line extending from the bottom of the name.

Adrian Duffield
Head of Service