

CARLISLE CITY COUNCIL

Report to:- Development Control Committee

Date of Meeting:- 14 DECEMBER 2007

Agenda Item No:-
A2

Public	Operational	Delegated: No
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Accompanying Comments and Statements	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	No	No
Personnel Comments:	No	No

Title:- PETITION: PARKLAND AVENUE/PARKLAND DRIVE
DEVELOPMENT, PARKLAND VILLAGE, CARLISLE

Report of:- Director of Development Services

Report reference:- DS.123/07

Summary:-

This report relates to a petition received in connection with a complaint heard by the City Council's Corporate Complaints Board of Arbitration.

Recommendation:-

The Committee is requested to receive the petition and to hear from Mr Jamieson or a representative of the petitioners.

Catherine Elliot
Director of Development Services

Contact Officer: Catherine Elliot

Ext: 7502

1.0 Background

- 1.1 The complainant Mr Jamieson has been pursuing a Corporate Complaint, which was heard by the City Council's Corporate Complaints Board of Arbitration on 31 August and 2 October 2007. The letter attached to this report, which accompanied the petition, is addressed to the Arbitration Board Members and was submitted in support of the Corporate Complaint presentation to that Committee.
- 1.2 Because the petition was directed at the Members of the Arbitration Board and not the Development Control Committee, a public committee, there are matters of data protection to consider. The signed part of the petition is not attached but it can be confirmed that there are 30 signatures, all with Parkland Avenue/Parkland Drive addresses.
- 1.3 The matter has been fully considered by that Committee, which has reached a conclusion and a decision on the complaint. The Committee's decision is attached. There was no further referral or recommendation to the Development Control Committee. The next stage in a complaints process would normally be with the Local Government Ombudsman should the complainant not be satisfied with the outcome and Mr Jamieson has been given this information.
- 1.4 However Mr Jamieson has expressed his concern to the Director of Legal and Democratic Services that no mention of the petition was made by the Board of Arbitration. He has therefore been invited to present the petition to this Development Control Committee and to speak on the item.

2.0 Recommendation

- 2.1 The Committee is requested to receive the petition and to hear from Mr Jamieson or a representative of the petitioners.

Catherine Elliot
Director of Development Services

Contact Officer: Catherine Elliot

Ext: 7502

Appendix 1

Petition – Handed Personally to Members of the Arbitration Committee

PETITION - HANDED PERSONALLY TO MEMBERS OF THE ARBITRATION COMMITTEE.

F A O The Board of Arbitration Committee Members

Personal Copy for the Attention of The Chief Executive
M Moonie
Civic Centre
Carlisle
CA3 8QG

30 August 2007

Dear Ms Moonie

The following petition is in response to the lack of Noise Mitigation measures taken by The Development Control , Planning Department and Building Regulations Department of Carlisle City Council for the Parkland Avenue/Parkland Drive Development, Parkland Village, Carlisle. We the undersigned support Mr Jamieson and also feel that this petition is totally justifiable. It implies a complete failure by these Department to insist and impose on the Developer Story Homes conditions to Comply with the Statutory recommendations laid down in PPG24, which was to eradicate unacceptable internal noise levels generated from the M6 Motorway therefore ensuring that all technical requirements for the Building Regulations and Planning Guidelines for this Development were satisfactorily met.

We the undersigned are also concerned that failure to insist on the Acoustic measures called for in the report for this Development indicates that the Officials involved were either not up to the task or were negligent in their duty.

The requirements of PPG24 call for a Specialist Noise Impact Assessment Study/Report to assist in NOISE MITIGATION at the North and South Eastern fringes of the Development.
This has been completely ignored

This report stated that the area concerned fell into the NEC development Category C Scale which called for the following Mitigating measures as directed by its findings and was to be incorporated into detailed plans supplied by the Developer to the City Council Planning Department in respect of Plan No 00/0693.

Noise Impact Assessment Report supplied by Kirby Charles Associates 23 February 2001 called for the following measures.

Acoustic glazing to a required specification which incorporated acoustic night time air vents. an acoustic barrier (not a fence), dense mature plantation of tree specimens, (either side of the farm access track) and an acoustic earth bund.

ALL EXCEPT THE LATTER HAVE BEEN APPLIED

THEREFORE MITIGATION OF NOISE THROUGH FAILURE TO IMPLEMENT PPG24 HAS NOT BEEN MET.

Yours Sincerely

Compiled for and on behalf of the residents;

Copies to;

Cllr S Tweedie.
E Martlew, Member of Parliament
J M Egan ,Legal & Democratic Services

Appendix 2

Corporate Complaint Board of Arbitration Finding

Legal and Democratic Services

Director of Legal & Democratic Services: J M Egan LLB

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817048

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Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Mr Dixon

01228 817033

lanD@carlisle.gov.uk

IJD/LT

15 October 2007

Dear I

RE: CORPORATE COMPLAINT BOARD OF ARBITRATION FINDING

Further to the meeting of the Council's Corporate Complaints Board of Arbitration on 31 August and 2 October 2007, I now write to advise you of the Board's decision. Firstly, the Members of the Board would wish to thank you for taking the time to attend the meeting of the Board and outlining the circumstances surrounding your complaint. After giving full consideration to:

- the papers and letters circulated with the Agenda for the meeting on the 31 August and the papers which you handed to Members of the Panel at that meeting;
- the presentation of your complaint which you gave to the meeting of the Panel on the 31 August and the response made by Officers of the Council;
- your letter dated 6 September addressed to the Chairman of the Panel;
- a visit to the site to look at the relationship between your house and the motorway, the earth bund which had been constructed, the acoustic fencing which had been erected and the planting which had been carried out, and
- the report of the decibel readings taken by the Council's Environmental Health Officers on the 6/7 September.



The Board have found as follows on the different aspects of your complaint:

- That with regard to the alleged failure of the Council to instruct developers, Story Homes to comply with PPG.24 prior to the granting of planning permission for the development next to the M6 motorway.

The Panel considered that it may have been appropriate for PPG.24 to be specifically referred to in the planning permission for this development but recognised that PPG.24 is a Planning Policy Guidance Note which gives advice and guidelines relating to planning and noise but is not a statutory document. The Panel consider that the Council did however address the issue of noise attenuation and measures and conditions were attached to the planning decision which included a requirement to provide a scheme of structural planting and related ground modelling or earth bunding with particular regard to landscape treatment and associated noise attenuation. The Panel were therefore content that although the Council did not specifically mention PPG.24 steps were taken to deal with the issue of noise from the motorway.

With regard to the issue of glazing this was referred to in the noise report which was prepared by Kirby Charles Associates on behalf of Story Homes. You will be aware that the Report was commissioned by Story Homes but was not submitted as part of the planning application and the recommendations in the report were not therefore a condition of the planning permission. With regards to the recommendations in the Kirby Charles report relating to the glazing requirements for the properties, it is not clear to the Council why the developer has chosen to implement some of the recommendations put forward in their own report, but did not choose to implement the recommendations with regard to glazing. As this was not included as a condition in the Planning Decision it is not a matter which could be enforced by the Council and this is therefore a matter which you may wish to take up with the developer or the vendor of your property.

With regard to noise levels in your property, the Council carried out a measurement to monitor the noise in your living room and bedroom at the rear of your property in the period 6 – 7 September 2007. The Panel have noted the rider, that the results from a single monitoring period should be treated with caution, but accepted that the data did give an indication of internal noise levels in your property. The results of that test showed that night time noise levels measured at 33.5db which met the bedroom standard of 35db currently set out in PPG.24 although that figure is in excess of the night time noise levels as contained in the World Health Organisation guidance levels of 30db. From the figures that were available to the Panel, the noise measurements undertaken in the bedroom on that night indicated noise levels that met the “reasonable design range” but did not meet the “good design range”.

With regards to the daytime noise levels on the basis of a sample one hour reading, the results indicated that internal daytime noise levels measured 26.3 decibels which are within the noise levels as set out in PPG.24 and the World Health Organisation Guidelines of 35/40 decibels.

I have enclosed, as requested, a copy of the report and readings that were taken by the Environmental Quality Manager but the Panel are content that no further noise readings should be taken.

With regards to your suggestions as to the actions which need to be taken to solve the problem the Panel's comments with regards to implementation of PPG.24 and the provision of an acoustic barrier by the developer has been dealt with earlier in the letter. With regards to your suggestion regarding the provision of acoustic glazing vents, the Panel consider that as there is no requirement in the planning permission for acoustic glazing vents to have been included in the development, that the Council are not therefore able to enforce such a condition and that is a matter which you may wish to take up with the previous owner of your property or the original developers.

You also referred in your presentation to the failure of the Council to seek advice from the Highways Agency as the development was close to the motorway. The Panel sought further information on this and were content that the Highways Agency's advice was not required on this development as, although the development is close to the motorway, there is no access from the development to the motorway itself.

As part of the site visit, Members of the Panel noted that the planting which had been carried out on some parts of the earth bund and the access lane to the rear of your property had been established and was starting to mature however, there were areas where this was not the case and the Panel have asked the Head of Planning Services to raise this matter once again with the developer, to seek to ensure that the planting across the earth mound and the bridleway access track to the rear of your property is to a satisfactory condition.

The Panel in considering your complaint did however accept that some of the responses to your letters did not provide you with the level of service which might be expected and have asked the Director of Development Services to write to you separately on this matter.

If you are not satisfied with the Council's response to your complaint, you may wish to lodge your complaint with the Local Government Ombudsman. I am enclosing the Local Government Ombudsman's Information Leaflet "Complaint about the Council". Ann Seex, who is based at York, deals with complaints for Carlisle City Council. If you want further advice you should telephone the York Office on 01904 380200.

Yours sincerely

Director of Legal and Democratic Services