

APPEALS PANEL 2

MONDAY 29 FEBRUARY 2016 AT 2.00PM

PRESENT: Councillors Betton, Bowditch and Ellis.

OFFICERS: Legal Services Manager
Development Manager
Planning Officer

ALSO

PRESENT: Appellant

1. APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor Bowditch be appointed as Chairman of the Panel for this meeting only.

2. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bloxham, Burns and Graham.

3. DECLARATIONS OF INTEREST

There were no declarations of interest in respect of the complaint.

4. PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

5. APPEAL AGAINST A DEVELOPMENT

The Chairman welcomed the Appellant and introduced the Panel.

The Chairman asked the Appellant to summarise his appeal as clearly as possible and what outcome he hoped to achieve from the hearing.

The Appellant gave details of his property and its relationship with the adjacent property which had a planning application for an extension approved. His property was a Grade II* Listed Building which was a particularly important building of more than special interest.

The Appellant stated that he had submitted his complaint as he had felt that his objections against the planning application, and those of the Parish Council, had not

been given due weight in the determination of the application. He had objected to the application on the grounds of loss of light to his property, inaccuracies in the officer report which had been considered by the Development Control Committee and difference in levels of the properties not being taken into account. When he had requested additional drawings which showed the profile of both the properties and the relationship between the two buildings he had been referred to block plans which he had found to be insulting.

The Appellant raised concerns with regard to the Development Control Site Visits. He felt that there should be notes of the discussions which took place at the visit and he questioned how Members who had declared interests could take part in the site visit and the Development Control Committee.

He also felt that the planning process was in favour of the applicant and all presentations and photographs had been from the point of view of the applicant, in addition the site visit had not attended his property to gain a different perspective of the application.

The officer report had stated that his property only had a door in the side elevation facing the applicant's property and a roof light which would not be adversely affected. He reported that the door was actually half glazed and provided the only direct light to an internal hallway; in addition the door was exactly opposite the proposed extension and because his property was lower than the applicant's property the light to at least one Velux window would be affected too.

The Appellant asked that the procedures for the site visits, how objections and objectors were treated and the accuracy of the information presented be improved.

The Appellant had been unable to attend the Development Control Committee in person but he had thought his objections were clearly written and had not expected his objections to the loss of light to be inaccurate in the officer's report. He had felt that the summary of his objection was unfair and misrepresented the impact on loss of light to his property.

The Appellant had requested a cross section plan to show the level differentials in the two properties, the extension would effectively be an additional 1.5metres higher due to the difference in levels and this would affect the light to his property.

The Appellant answered the Panel's questions and highlighted the lack of notes at the site visit and the declarations of interest which gave the impression of the Council being prejudice in favour of the applicant.

The Legal Services Manager reminded the Panel of the various interests that Members could declare and that making a declaration did not automatically mean a Member could not take part in discussions.

The Appellant agreed that Historic England had not objected to the application as it was but had objected to the first submission; he also felt that the agreement to the application had been reluctant.

In summing up the Appellant agreed that his complaint was that his objections had not been properly considered, there were inaccuracies in the officer report, no indication that consideration had been given to the level difference in the two properties, no notes had been taken at the site visits, the site visit had not included the Appellants property and the bias toward applicants.

He would like the outcome of the Panel to be an improvement in procedures which included how objectors and objections were handled and that site visits be recorded.

The Panel thanked the Appellant for his input and advised that he would be advised by letter of the Panel's decision. The Appellant left the hearing at 2.40pm.

The Panel invited the Development Manager to the meeting.

The Chairman gave a summary of the Appellant's complaint and asked the Development Manager to address each of the Appellant's concerns.

The Development Manager confirmed that officers summarised the objections in the report but the full objection was printed and placed in each Group room for Members to read and were available on the Council's website so Members had access to all of the information. Any representations received were placed in the front of the report before the officer assessment. In the case of the Appellant the glazed door had been clearly visible to Members during the site visit.

The Development Manager showed the Panel a photograph of the glazed door which showed shading over the glazed part of the door from the property's thatched roof. The extension would not additionally affect the light to the door.

The Development Manager reported that the site visit to the applicant's property enabled Members to clearly see the Appellant's property, door and the relationship between the two properties. Site visits were never carried out on third party properties for logistical reasons. Officers, however, did visit neighbouring properties if they felt it was necessary or if a request had been made.

In addition objectors were able to present their case alongside any photographs at the Development Control Committee under the Council's Right to Speak Scheme.

Because the property was a Grade II* Listed Building Planning Services consulted directly with Historic England. Due to concerns raised with the original application

amendments were made and revised plans were submitted. Their comments on the revised application had been included in the officer report.

With regard to the request for additional cross section drawings the Development Manager explained that additional drawings would only be requested if, in this case, Historic England or officers were not satisfied with the drawings provided. It was felt that additional drawings would have been an unnecessary additional cost to the applicant.

Referring to the declaration of interests the Development Manager confirmed that it was Members responsibility to declare interests as soon as they are aware of them and depending on the interest they could take part in the discussions. Often with Development Control, Members did not know they had an interest until the meeting when people arrived to give representations.

The Site Visits were not minuted in detail as no decisions were taken at the site visits; they were just factual briefings for Members, it would also be difficult to formally minute the visits due to the nature of them. The applicants and objectors were not allowed to take part in the visits. Any matters raised at the site visit were summarised by officers at the Development Control meeting and included in the minutes for the meeting. Members would also raise any questions or issues at the Development Control Committee.

The Development Manager reported that Planning Services followed legislation and guidance with regard to loss of light, privacy and overlooking issues but they referred to principal windows, in this case the window in the door was not a principal window. There were no regulations which stipulated the distance from a development to a door. Should an objector suffer from loss of light following completion of a development they could take the matter forward as a civil matter against the applicant.

The National Planning Policy Framework amended planning rules to a 'presumption in favour of sustainable development'. This allowed people to develop their own properties and increased development rights. It also meant that officers had to consider applications with pro development in mind.

The Panel invited the Planning Officer to the meeting. In response to Members questions the Planning Officer confirmed that he had not visited the Appellant's property as the property and door had been clearly visible from the applicant's property. He reiterated that visits to neighbouring properties were only carried out if necessary or if the neighbours asked for the visit.

He stated that the response from Historic England had been very important as the first application had significant amendments made before re-submission.

The Panel thanked the Officers for their input and they left the hearing at 4.05pm.

The Panel then considered the presentation from the Appellant and the evidence that had been presented to them, prior to and during the hearing and:

RESOLVED –1)That the complaint not be upheld.

2) That the Director of Governance and the Director of Economic Development consider whether Development Control site visit notes can be improved or produced in a different manner.

3) That the annual training given to Members of the Development Control Committee reemphasise the importance of Member declaring interests and remind Members of the action that should be taken.

(the meeting ended at 4.12pm)