

APPEALS PANEL NO. 2

TUESDAY 22 JULY 2014 AT 10.00am

PRESENT: Councillors Bloxham, Caig and Harid.

OFFICERS: Building Control Surveyor
Committee Clerk

1. APPOINTMENT OF CHAIRMAN

It was moved and seconded that Councillor Harid be appointed as Chairman of the Appeals Panel No.2 for the municipal year 2014/15.

RESOLVED – That Councillor Harid be appointed as Chairman of the Appeals Panel No.2 for the municipal year 2014/15.

Councillor Harid thereupon took the Chair.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. 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.

4. COMPLAINT REGARDING BUILDING CONTROL

Consideration was given to complaint regarding the manner in which officers dealt with Building Regulations in relation to a kitchen extension.

The Chairman introduced the Panel and outlined the purpose of the meeting and procedure to be followed. He confirmed that all those present had seen the relevant documentation, copies of which had been circulated prior to the meeting.

The appellant introduced herself to the Panel.

The Chairman asked the appellant to summarise the complaint as clearly as possible and the outcome she hoped to achieve. The appellant explained that she had been advised by Building Control to obtain a structural engineers report and to provide a specification of works in respect of an extension being erected to the rear of her property. The builder had not completed the work and the Council had not been aware of that fact when they issued the Building Notice Completion Certificate. The Council had sought advice from an independent structural engineer with regard to the beams. The Structural Engineers had advised that they were satisfied that the calculations complied with the building regulation requirements without the need for strapping. However they had not been to the property and the appellant queried how an assessment could be made without seeing the beams in situ. The appellant acknowledged that she had issues with the builder that were not within the remit of the

Council but she did not feel that care had not been taken with regard to the Building Notice Completion Certificate and the builder was now refusing to make good poor workmanship as the Building Notice Completion Certificate had been issued. The appellant stated that the available information was vague and was disappointed that the Council did not have more information available.

In response to a query the appellant confirmed that she had instructed a firm of Chartered Building Surveyors to look at the straps and the beams as they had not been assessed by the Council. The surveyors had looked at the beams through floorboards from a room above as they had already been boxed in and brought some issues to the appellant's attention. She confirmed that the Structural Engineers employed by the Council to assess the beams had done so by looking at the plans and had not visited the property.

With regard to cavity trays the appellant had confirmed that she had been advised that they were not necessary due to the location of the property. However the Chartered Surveyor employed by the appellant had stated that rainwater could penetrate the outer leaf of the cavity wall.

The appellant was unsure how many times Officers from Building Control had visited the property as she had left that to the builder as she was at work through the day but she assumed there would have been four or five visits.

The appellant had asked that the completion certificate be withdrawn but was advised that that was not possible. A letter from Building Control had confirmed that the work was compliant with regulations. The appellant was concerned that the beams could move and cause damage to upstairs rooms and the house. The appellant failed to understand the need for a Structural Engineers report if no heed was taken of it.

The appellant believed that the installation of the beams formed part of the Building Notice and they had been checked by an Officer from Building Control. She stated that had she known that the Structural Engineers report would not be taken into account as part of the Building Notice she would have submitted a Full Plans Application. The information on the website was vague and although the Deputy Chief Executive had stated in his letter that something would be done about it the information it had not changed. A Member believed that the website would be amended following investigations by the Deputy Chief Executive as stated in his letter.

The Chairman summed up the appellant's complaint and the appellant agreed that the Panel had understood the nature of her complaint.

The appellant left the hearing at 10.45am.

The Panel invited the Building Control Surveyor to the meeting.

The Building Control Surveyor explained the difference between a Full Plan Application and a Building Notice Application. The appellant had submitted a Building Notice Application and that had been accepted. A Building Control Officer had visited the site but no drawings of the proposed extension were available.

With regard to the beams the Building Control Surveyor explained that it was not necessary to notify the Council when the beams had been installed. The appellant had called the Building Control Officer to check the beams and he was satisfied that they met with requirements.

Some time later the Building Control Surveyor had seen the calculations with regard to the beams which were again checked and approved.

With regard to the cavity trays the Building Control Surveyor explained the policy for the installation of such trays and confirmed that they were not required on the appellant's property under Council policies. Those policies were currently under review and Officers were discussing requirements with other authorities in an effort to achieve consistency across the board.

The Building Control Surveyor confirmed that the Building Notice Completion Certificate had been issued as the Officer was satisfied that the work had been completed. It had been explained in a letter to the appellant that the certificate did not stop her from taking action against the builder if she was not satisfied with the level of workmanship received.

A Member queried the level of information available to members of the public. The Building Control Surveyor provided examples of current literature which Members believed fell short of what could be made available. He stated that the Council dealt with hundreds of such applications and had not received any complaints in the past.

The Building Control Surveyor advised that there had been some changes to legislation with regard to building work but confirmed that the appellant's application had been received prior to those changes being implemented. He confirmed that it was not unusual for structural work to be partly covered in before inspection provided there was sufficient visible to confirm that the work complied with regulations.

Although the Building Control Surveyor confirmed that the necessary inspections had been undertaken Council records did not show who had requested those inspections. Much of that work was done by e-mail or telephone so no record was available. The Building Control Surveyor confirmed that a letter was sent to the builder at application stage advising that inspections would be required at certain stages and how and when the Council should be notified. If those inspections were not carried out, ultimately a penalty notice could be taken out with regard to the builder.

A Member queried the Council's standing should something happen in future due to the failure of the beams. The Building Control Surveyor explained that the Council would not be liable for any economic loss but could be liable if injury or loss of life occurred. However he stressed that the installation of the beams had been checked by the calculations provided and Officers were satisfied that they were compliant and that straps would not be required.

With regard to cavity trays the Building Control Surveyor stated that the policy in relation to those trays had been in place before he started employment with the Council. As a result of the appellant's complaints the Building Control Surveyor made enquiries with a number of building surveyors and had been advised that there had been no complaints from home owners whose homes were in a similar elevation to the appellant's. A review of the policy was currently underway and the policy would be amended if necessary.

With regard to the information currently available on the internet Members suggested that there should be separate leaflets explaining Full Plans Applications and Building Notice Applications and that the information could be improved. The Building Control Surveyor explained that the information available would be reviewed and brought in line with Local Authority Building Control (LABC) information.

The Panel thanked the Officer for his input and he left the hearing at 12.10pm.

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

RESOLVED that:

1. there was an urgent need to review the information available to customers to ensure there was a clear distinction between a Full Plans Application and a Building Notice Application;
2. the issuing of the Building Notice Completion Certificate had been acted upon correctly in light of the application being submitted prior to the changes to legislation in 2013;
3. Members had noted that in the application the appellant had designated the builder as her agent; and
4. all relevant inspections had been made in accordance with Building Control regulations.

[The meeting ended at 12.15pm]