

FULL COUNCIL – 8 NOVEMBER 2023

AGENDA ITEM 3 – PUBLIC QUESTION TIME – ORDER IN WHICH THE CHAIR OF THE COUNCIL WILL INVITE QUESTIONS BELOW RECEIVED IN WRITING IN ADVANCE OF THE MEETING

1. From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton
2. From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton
3. From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton
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FULL DETAIL OF THE QUESTIONS TO BE ASKED IS DETAILED BELOW

Note, the Chair will:

- invite questions from members of the public who have submitted in writing their questions in line with the Council's Constitution.
- confirm that Public Question Time allows Members of the public to ask one question at a time and that a maximum of one minute is allowed for each question;
- state that questions will be invited in the order in which they have been received and that if there is time remaining from the 15 minutes allowed for Public Question Time, questioners will be allowed to ask a supplementary question.
- Outline that if in the opinion of the Monitoring Officer the question relates to the terms of reference of a Council committee, the question is to be accepted by Full Council and be automatically referred by Full Council without discussion or debate to the relevant committee and that the questioner would have been advised of this at the time they submitted their question

QUESTION ONE

From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton

Question

When Planning Application AL/116/18/PL was granted, a Full Condition related to the boundary with our house was not included. We would like to know why that was.

It is a fact, and has been accepted by the Council, that the land had been vacant for 35 years until then, and the boundary fence belonged to us. It was a picket fence, 4 feet high and extended for 150 feet, which we had maintained for those 35 years. Quite adequate to separate our garden from an empty field, but in no way acceptable as a boundary between two residential properties.

We understand that Full Conditions are only imposed if they fulfil the 6 principles in planning legislation, so we would like to know which principle(s) our situation did not fulfil.

Response

I express my deepest sympathy to you Mrs Smith for the sad history for this site, and the decisions she is questioning is quite difficult for the Planning Committee Members to deal with and I was not involved in at that time. I did receive an awful lot of mail from Mr and Mrs Smith and we were asked to let the Officers take charge of this.

I do have a response to the question.

A condition can only be imposed where it can be complied with. As the applicant had no control over the existing boundary fence it was not appropriate to impose a condition on this. The Council has responded to this question in Public Question Time at the meeting in November 2022 and in a letter from Neil Crowther, Group Head of Planning, in June 2023. It was also dealt with in response to a formal complaint in a response dated 10 June 2020. The Council has nothing further to add.

QUESTION TWO

From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton

Question

As it was a deliberate decision taken by the Planning Officer, to give only an Informative Condition to Planning Application AL/116/18/PL,

INFORMATIVE: It is requested that consideration be given to raising/improving the existing boundary to Westfield House in order to protect their privacy. Details of such improvements should be submitted with the plot boundary treatments required by the above condition.

This never happened, so would the Council explain exactly which steps needed to be taken, to enable this to be achieved.

Response

An Informative attached to a planning permission is only guidance. It places no obligation on the applicant. This was explained to you in the complaint response dated 20 June 2020.

Supplementary Question

We all know the informative is not enforceable and so why was it put there in the first place?

Supplementary Response

Could I please ask one of the planning officer's to respond to that.

The Joint Interim Chief Executive and Director of Growth responded.

An informative by its very title is there to provide information, it is not a statutory part of the decision notice which is to be implemented, it is not something that specifically requires the applicant to undertake something that we can then if the applicant does not comply with we can then challenge through the submission serving of an enforcement notice. Therefore, I re-emphasise the point that it is an informative, it is there for information.

QUESTION THREE

From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton

Question

When the application for boundary treatments AL/52/19/DOC was decided, the Planning Officer (in his report of 26.9.19 posted on the web site) was forced to admit,

08 New Boundary Treatments: The concern of the neighbour is that the boundary treatment scheme does not show any replacement of the boundary between the application site and the neighbour's property ("the shared boundary"). However, there is an existing boundary between the two sites, and it is understood from further communications from the neighbour that they have gone ahead and replaced this boundary with a higher fence. This would also suggest that the neighbour has control/ownership of the existing boundary treatment and therefore it may not have possible for the applicant to amend the shared boundary as they would have required third party permission.

Why was the Planning Officer not aware of this when he agreed the original Planning Application?

Response

You are aware that the decision on AL/52/19/DOC was to grant approval for a 8m high close boarded timber fencing between the rear gardens of two dwellings and to the rear southern boundary; a planted 1.8m high bund to the rear of the site; and a 1.2m high post & rail fencing between the front gardens of the two dwellings and to the front southern boundary. This was concluded to be adequate for the purposes of discharging the condition imposed.

Land ownership is not a material consideration and planning officers are not required to investigate boundary ownership to determine an application or when drafting conditions and informatives.

This matter has previously been responded to in June 2020 through the Council's formal complaint process (at stages 1 and 2) and there is nothing further to add.

Supplementary Question

With respect to the Councillor the 8m reference to the fence was a typing error I would like to point out that 1.8m related to the fence between the properties being developed and does not relate to their boundary – there is nothing in this response that relates to the boundary what is called Grey Gables. My question has not been answered, can it please be answered.

Supplementary Response

The Chair confirmed that a response had been given by officers.

QUESTION FOUR

From Mrs Smith to Chair of the Planning Committee, Councillor Hamilton

Question

The Planning Officer went on to say, ***The proposed boundary treatment scheme is considered to ensure that the privacy of future residential occupiers is to an acceptable standard and is therefore considered to be appropriate.***

The Council had been informed on 24th June that **PART** of the fence had been replaced by us, for the reasons outlined in our email, which was not entered on the application site until 1st October 2019, although it had been sent to multiple addresses 3 months prior to the determination of the application. Inspection of the Planning correspondence and photographs of 30.9.2019 posted on this site, clearly show why we were forced to replace the **FIRST THIRD** of the boundary fence.

How could the Planning Officer make such a decision relating to the rest of the boundary fence, (which had not changed) in direct opposition to his first decision?

Response

You wrote to the Council on 1 June 2019 and stated *“Therefore, we have decided that we will have to replace some of the fence ourselves to give privacy, close to our conservatory windows. (The rest will have to wait until next year.)”* This clearly set out an intention to replace the whole of the fence thus resolving the issue of privacy and was before application AL/52/19/DOC was determined.

The Officer's have nothing further to add to the response provided already to the previous question.

Supplementary Question

I do hope that Councillors will take the trouble to look at this on the web site. I wrote about this on 24 June 2023 and I have the email and the photos if anyone wishes to see them. I understand that the Councillor was not Chair at the time and I ask her if she has looked at it?

Supplementary Response

I first looked at this very briefly in the early stages and I was not the Chair of the Planning Committee at that time. But we were asked by the Officers, due to the deluge of letters that we were receiving, not to respond, so we didn't respond.

QUESTION FIVE

From Mrs Smith to the Chair of the Planning Committee, Councillor Hamilton

Question

The Planning Officer concluded, ***Nevertheless, the matter has now been resolved.***

This matter was never resolved. The Planning Officers' decision on this matter, then removed the obligation for Mr. Duggin to do anything at all, and ensured that we had to pay for the rest of the boundary fence. A fence of 150 feet. with a total bill of £10,000.

We would like the Council to explain, why it became our responsibility to provide a boundary fence to satisfy privacy for Mr. Duggin and future occupants of his property.

Response

As previously set out in the letter from Neil Crowther, Group Head of Planning, on 19 June 2023, numerous previous correspondence and previous responses to questions made to Full Council in November 2022, there was no obligation to erect boundary treatments through any planning permission and the decision to erect any boundary treatment was a decision taken. As previously stated, the Council considers this matter closed and will not be commenting on this issue any further.

Supplementary Question

In terms of the amount of correspondence and the instruction from Officers to Councillors to not correspond with us in anyway means that I intend to come back at the next meeting to ask further questions. This matter was the subject of a Local Ombudsman complaint which was upheld, and the council was forced to pay compensation in the sum of £280. Councillors need to understand why we are not walking away from this matter and that we are forced to come back to meetings in the future to continue to ask questions that remain unanswered.

