

15 June 2009

The Acting Chief Executive,  
Derby City Council,  
The Council House,  
Corporation Street,  
Derby DE1 2FS

Dear Sir,

**Request for an independent investigation into the working practices  
of the Derby City Council Planning Department**

You are undoubtedly aware that on 28 May 2009 Richard Williams (WILLIAMS), Deputy Director - Regeneration, admitted to the Planning Control Committee that 60 breaches of the rules requiring the advertisement of planning applications had occurred in the previous three years thus denying members of the public the opportunity to pass comment on these applications. WILLIAMS described the failures as in effect being "honest mistakes". This excuse beggars belief and can only be described as consistent with the excuses that have been uttered recently by elected members of the House of Commons.

These procedural errors by the City's Planning Department. (PLANNING DEPT.) are symptomatic of many other failings that have occurred in recent times, as set out below. The consequence is that the people of Derby have little if any faith in the workings and decisions of the PLANNING DEPT. as it is presently constituted. They, the people, have from experience and associated legal advice, moved to a position where decisions by the PLANNING DEPT. are scrutinised closely and action taken where appropriate. This is not a "healthy" situation for it promotes an adversarial environment between Council Officers and the local tax payers. The word "trust" springs to mind with regard to this local situation as well as politics nationally.

The following are issues where it is considered that significant failures or incorrect procedures have been followed by the PLANNING DEPT.

1. The 60 applications not advertised as described above. Failure to post site notices has been noted previously. Perhaps the procedures set out for posting these notices should be reviewed. Examination of these procedures is even more important now that the responsibility for posting notices on lamp posts has moved from the Council to Balfour Beatty.
2. On 22 December 2005 the Planning Control Committee sought to determine the planning application to demolish and rebuild the listed wall structure of the Friar Gate Goods Yard (11/05/01983) just two weeks into the advertised three week consultation period. A High

Court injunction was served on the Council to prevent this decision being made. It highlights the attitude of the PLANNING DEPT. to the public and the public's role in the planning procedure.

3. When an initial planning application has been refused and a second application or even a third is made to overcome the stated grounds for refusal, then the PLANNING DEPT. rule that issues agreed in the previous application are not debatable in the new application. Counsel's advice on this "serial" application procedure is that an application made under a new planning application number is a new application and all issues relating to the new applications are open to comment.

The present PLANNING DEPT. procedure allows the applicant to chip away at public objections so that eventually when all objections have been progressively overcome in this way then planning approval is achieved. The fallacy in this PLANNING DEPT. procedure is that issues passed in the serial process can create confictions with regard to aspects previously agreed.

For example Kings Croft, Allestree

original application 07/07/01442 (refused) 45 dwelling and 45 bed care home

second application 01/08/00001 (refused) 50 dwellings and 60 bed care home

third application 05/08/00703 (passed) 55 dwellings and 60 bed care home

The impact of the increasing numbers was not properly reflected in the consideration of drainage issues and traffic volumes.

- .4. When a petition is raised objecting to a planning application the PLANNING DEPT. consider this to be a single objection.

Where public meetings are held regarding a particular application the resulting submissions to the PLANNING DEPT. can have a common theme arising from the presentations and discussion at the meeting. These have also been classified as single objections by the PLANNING DEPT.

Taken to the extreme, the illogicality of this approach is that if every Derby resident signed a particular petition then it is possible for the PLANNING DEPT. to ignore this weight of public feeling.

In a similar way, Derby citizens and others not resident in the City have been challenged by the PLANNING DEPT. for objecting to an application in a Ward in which they do not reside.

5. The PLANNING DEPT. are selective in their analysis of comments and objections to planning applications. This applies to submissions by English Heritage, the Conservation Area Advisory Committee, as well as individual submissions. The PLANNING DEPT. appear not to accept that in the public at large there can be more technically qualified and skilled people than exist in the PLANNING DEPT. and indeed in the Council itself. Demonstration by the public of illogicalities and impracticalities of an application are glossed over if they conflict with PLANNING DEPT. conceptions.

6. With reference to the sorry tale of the Hippodrome Theatre, it is clear that the PLANNING DEPT. did not comprehend the legal issues or perhaps considered themselves outside the law. When so called repairs were being carried out on the Theatre on the 28 March 2008, WILLIAMS was present. On that day demolition was carried out without the requisite planning permission for such work on a listed building. With regard to the demolition of the listed building without planning consent, this was a contravention of Section 59 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which was the responsibility

of Local Authority to stop.

There is no case for the PLANNING DEPT. to say that the extent of demolition carried out was necessary for safety issues. The roof and walls of the Stage area were demolished when no repair works were scheduled for that area. The Stage area is in effect a separate structure independent of the roof over the auditorium.

The failure by WILLIAMS to take action to prevent the civil crime must severely prejudice the High Court action that Derby City Council have against the developer.

7. On a number of occasions electronic communication with the PLANNING DEPT. web site (*developmentcontrol@derby.gov.uk*) has failed. This has led to some comments on planning applications not getting through.  
It has been established that this failure is due to the relevant computer in-box in the PLANNING DEPT. being full, meaning either the capacity of the in-box is too small or the box is not being emptied on a consistently regular basis.
8. The PLANNING DEPT. on occasions do not appear to comprehend the geography of the City. There are examples of applications being ascribed to the wrong ward. Whilst this may appear trivial it could impact on statistical analysis of planning submissions, would affect the recent requirement for the circulation of planning applications in a particular ward to the relevant Councillors and also reflects a lack of diligence and checking in the processing of applications.
9. A major issue with regard to planning in the City is the role of Cityscape. It would be a unique situation if a Cityscape project was recommended for planning refusal by the PLANNING DEPT. Referring to 5. it appears to the public that an observation by Cityscape on a planning application always carries more weight than any other comment.

Last year the PLANNING DEPT. received a central Government bonus of around £225,000 for hitting targets for planning approvals. The foregoing items, in particular 1., 4., 5. and 7. show how this may have been achieved to the detriment of democracy by the suppression of public comment.

Given the organisational and operational failings of the Derby City Council Planning Department outlined above, which will have financial implications for all local taxpayers, will you please consider what steps are necessary to ensure that proper procedures and practices are followed by this Department. In the light of the seriousness of the issues raised we consider it appropriate and necessary that an independent investigation is carried out as soon as possible. We look forward to your views.

Yours faithfully,



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