

Nicola Spencer

From: Adrian Burrows [REDACTED]
Sent: 19 May 2018 08:03
To: Nicola Spencer
Cc: Karl Roberts; Neil Crowther; Anita Gardner
Subject: Re: AHA! Fitzalan Rd :Breach of National Validation Requirements

Dear Nicola,

Re: Breach of National Validation Requirements: The Application is not Valid.

Thank you very much for your email dated 18th May 2018 below.

Our position remains that the application has been incorrectly validated because at the time it was validated it was in flagrant breach of the Local and National Validation Requirements. Both Arun and the applicants have now admitted this. The breach is a de facto breach and it needs no explanation or justification in law. The application is void and it always will be.

It is not necessary to explain why this breach is so important but the consequence of this breach of Validation Requirements is that members of the public (8 so far in 24 hours) are objecting to the planning application without having had sight of the full information. In particular they are rushing to object now because you have (with respect) incorrectly published a determination date of 5 weeks hence. It is for precisely this reason that we have National Validation Requirements- namely to enable the public to see a correct and valid planning application from the start. Your implied suggestion that you will upload the correct application documents online, presumably piecemeal, as and when the developers decide to produce them is going to mean that the public will have to look at the application every day and search for the latest information which is now being prepared by the developers in secret. This is simply not fair and not reasonable. The public cannot be expected to do this. For example, the 8 objections that have been submitted so far relate to the application as it stands. For all we know, the application might now radically change if for example we discovered that the missing topographical survey shows the ground level to be 1.5m higher than the incorrect application drawings currently show it. Are you then going to write to all the objectors inviting them to look again at the application and perhaps amend their objections? **You say that advertising the application in the press and putting notice up will suffice. This is (with respect) incorrect. Someone who has already objected based on incorrect information/incomplete planning drawings, is highly highly unlikely to object again once the application is published because they will not know that the application has changed.** Can you appreciate this point? Any suggestion that the application will not have changed radically/materially is misconceived because the current application is missing about 10 major documents which I suspect will run to about 50 additional pages. **further, neither you nor I know at this stage whether the missing documents might change the application in a material way, in which case the application will need to be set aside for that reason afaict.** Surely you can see this is misconceived and Arun has set off on the wrong foot and must now reconsider its position rapidly before a myriad of issues emerge.

Notwithstanding the generality of the foregoing:

1. **Please can you now correct the date the application was received and validated** (it currently shows it was received **and** validated on 30th March 2018) which I presume is incorrect? This is important because you have set a date for determination of 29th June 2018 namely circa 3 months from the validation date (3 months is standard for a major application) . The likelihood is that the application was not validated on the same day it was received (30th March 2018) it normally takes about 3 weeks in my experience, and therefore the determination date of 29th June 2018 is incorrect. Please can you correct the validation date and therefore correct the determination date online.

2.. if I understand your email below correctly, you are saying that the application will not be published for consultation until all the information is received by the applicants. Notwithstanding and in addition to numbered point 1 above, **setting and publishing a determination date of 29th June 2018 is incorrect.** At present, nobody knows when or if the applicants will produce all the documents necessary to validate the planning application. If you keep the determinations date as stated by arun as 29th June 2018 there are two consequences:

a) **if a decision is not made by arun by 29th June 2018 , the applicants can go straight to appeal for non determination on 29th June 2018 ,12 weeks from the date of validation. This will enable the applicants to circumvent the whole planning process.** do you appreciate this point? ;and,

b) **the incorrectly published determination date (of 29th June 2018) is giving the public the completely wrong impression that a decision is about to be made (within 5 weeks) and therefore people believe incorrectly that the consultation period of probably over.** in fact , the opposite is true- the consultation period has not even begun. do you appreciate this point?

as a consequence of the above points, will you now please amend/correct the validation dates and the determination date on line AND also take advice from your planning solicitor as to whether the application is valid or not and therefore whether it should be struck out/set aside.

thanks in advance,

Adrian Burrows

On 18 May 2018, at 18:15, Nicola Spencer <Nicola.Spencer@arun.gov.uk> wrote:

Dear Mr Burrows

Thank you for your emails.

Yes the expiry date has been amended as it is a major application.

The application is live on the website but we have not advertised it yet and will not until we have received the documentation that has been requested. The agent has indicated to us that this is in hand. As soon as we receive the information that is required it will be published in the planning weekly list in the West Sussex Gazette in the Public Notices section, in our planning weekly list on our website and site notices will be displayed. This is the normal way in which we alert the public of the existence of the application. At that point the formal consultations will also be carried out. The publicity period commences at that point and there will be the formal 21 day publicity period for comments to be submitted . At point the comments due date will appear on the website so everyone will be clear about when they need to make comments by. I understand you are under the impression that we will only allow customers to comment once on an application. This is incorrect they can comment as many times as they wish. We cannot determine the application until the publicity period has expired regardless of the 13 week expiry date, so the public will get the full 21 days to consider the application in full.

I cannot really add anything more to what I have previously stated. We have gone through the local validation requirements list and applied it proportionately and requested the information that at this early point in the life of the application, we require to determine the application. If at a later point the case officer determines that further information is required they can ask for this at that point. The validation process is not subject to public participation so we are not obliged to consider your validation wishes. You can raise any issues about the content of the application as part of your representation on the application and if it is a material planning consideration it will be taken into account in determining the application

Your sincerely

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From: Adrian Burrows [REDACTED]
Sent: 16 May 2018 16:33
To: Nicola Spencer; Karl Roberts; Neil Crowther; Anita Gardner
Cc: Town Clerk
Subject: AHA! Fitzalan rd

Dear Nicola,

It seems 2 helpful things have evolved since my emails of yesterday as follows:

1. thank you for confirming yesterday that the planning application has gone live on your website. I have now had a chance to look at which documents you have correctly requested from the developers so that their defective application might comply with the National Validation Requirements. My case remains, that until the application complies, it is invalid and the clock for the determination deadline must not start ticking.
2. I also note since my email of yesterday, that the date for determination has now been published as 29th June 2018 (moved on by circa 1 month) since yesterday.

I am however concerned that you have ignored my wish that distances to adjoining property, windows of adjoining property and topography of the site and surrounding area is accurately shown.

there were listed as points : 3, 4 and 5c) in my email dated 26th April 2018 address to planning officer David Eaton and then forwarded to you.

the reason that points 3,4 and 5 c) are so vital is because the affect of a 3.5 storey structure (set 1.5m out of the food plain) some 11m from adjoining property will have a damming impact on overshadowing, privacy, overlooking, loss of amenity, and, of course, rights to sunlight and rights to day light.

we accept that Rights to Light is a civil not a planning issue but rights to day lights and sun light are not civil issues (they are planning issues) and should be closely monitored by the LPA in accordance with the National Planning Guidelines.

In this regard, we took advice from a surveyor in respect of the last application relating to this site and that advice was published in our objection to that application under the chapter "rights to light".

You will presumably appreciate that unless the topography of the site and surrounding buildings is known, plus the precise distances to adjoining building plus the size and position of windows, it is impossible to correctly assess the technical criteria for rights of sun light and daylight infringement.

The developers themselves appear to have admitted they are taking this matter very seriously and have included in their application a detailed assessment of sun light/ daylight, however they have admitted they have not conducted accurate surveys and there are evidently demonstrable fundamental errors in their assessment (such as a they have not included the closest window to the new development). **So it is surprising that the LPA is not insisting on such a detailed assessment and i invite you again to reconsider this**. How can members of the public possibly assess the impact of the development on their windows or on the surrounding conservation area or the street scene when we don't know the distances,

heights and positions? In my view there should be a full sun light and sun path 3D modelling at different times day at different times of year. This is completely standard in london and recommended practice. Again, last year, in respect of the previous application, AHA! commissioned a 3d modelling and it showed the proposed "tower block" casting a shadow completely over every surrounding property and half way into the River Arun.

in passing , I note that members of the public have already started objecting to the application online and they are objecting based on an incomplete application so the decision to prematurely validate the application without the full information is already affecting the planning process detrimentally.

Please will you confirm that you will add a request for points 3 ,4 and 5c) to the required list of documents.

thank you very much,

Adrian Burrows


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Adrian Burrows
