

[REDACTED]

From: Peter Tanner [REDACTED]
Sent: 16 August 2018 09:51
To: Adrian Burrows

[REDACTED] Anita Gardner
Subject: Re: Fitzalan RD breach of rights of light -PROPOSED NOTICE

Adrian

I refer to your email response dated 15 August 2018.

I do not understand why you consider my email of the 14 August to be misleading. Do you wish me to arrange our surveyor to measure your property or not? Despite having provided you with the BRE report on daylight and sunlight for planning purposes and their report on Right to Light as it affects your property, you continue to allege that there will be a breach of your Right to Light but you provide no evidence to support this claim. Either allow us to carry out a measured survey of your property which I will then put before BRE to test their findings or provide me with your consultant's evidence so that BRE can appraise it. I can see no reason why that survey should be conditional on me providing you any other documents as indicated in your email of 14 August. I again invite you to provide me with some times and dates when it would be convenient for our surveyor to visit your property.

With regard to the validity of our planning application, I repeat this is a matter for the Local Planning Authority to determine. They are satisfied that the application is valid and have registered the application. It is not unusual for LPA's to request further information from applicants during the processing of applications to enable them to more fully understand the nature and impact of the proposals. That does not imply that an application is invalid. As I have mentioned to you before, if you have an issue over the validation of the application, take the matter up with the LPA.

As you will be well aware from involvement in your own planning applications for proposed development, statutory consultees may request further details/clarification on various matters relating to proposals. This is not unusual in the planning application process. Nor do requests by statutory consultees for further information/clarification amount to a planning application being deemed to be invalid.

Whilst statutory consultees have requested further information, I am not aware that any have suggested that the planning drawings submitted are inaccurate, as you allege.

I note that you, on behalf of the AHA Group, allege that the submitted planning drawings contain inaccuracies but despite my request you have yet to provide me details of the alleged inaccuracies.

Please provide me with details of the alleged inaccuracies and I will

examine whether or not they exist.

If inaccuracies are found to exist I will instruct our architect to address them.

Similarly, if you consider that there are any omissions from the details shown on the planning drawings, please provide me with a list of those details which you consider should be included and I will consider whether they are reasonable, necessary and appropriate for inclusion in the drawings to enable the application to be properly determined. At this moment in time I have no reason to believe that the planning drawing are inaccurate or otherwise deficient.

Notwithstanding
the above

, the Highway Authority have requested
further information relating to details of layout of
the neighbouring BT Depot access

to
be shown on our site plan

. I have
requested our architect to show
this additional detail

.

With regard to further information requested by some of the statutory consultees, I am attending to those matters. In this respect, this week I have submitted to the LPA an updated Flood Risk Assessment and a Pre and Post Development Drainage Flow Report that addresses concerns raised by Southern Water. I have also commissioned our transport consultant to undertake a Road Safety Audit, as requested by the Highway Authority. These documents will be available for you and other third parties to view on the Council's planning register website once uploaded.

As mentioned above, there is nothing unusual in statutory consultees or the Planning Officer requesting additional supporting information as part of the normal planning application process. Any suggestion that requests for additional supporting information amounts to the application being invalid is disingenuous. Furthermore, your allegation that we have been unwilling to provide the local planning authority with valid accurate plans is wholly false and mischievous.

At the risk of repeating myself and to enable me to consider your alleged concerns I would be grateful if you could provide me with the following,

- details of the alleged planning drawing inaccuracies;
- details of the alleged planning drawing omissions;

- a copy of your consultant's daylight/sunlight and Right to Light calculations and report;
- times and dates when it would be convenient for our surveyor to measure your property so that BRE can review their findings.

I look forward to your positive response to the above matters.

Regards.

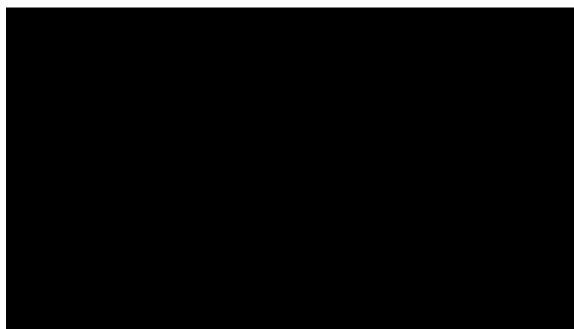
Peter Tanner

Planning Director



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On Wed, 15 Aug 2018 at 12:27, Adrian Burrows [REDACTED] wrote:

Dear Peter,

thanks for the below email dated 14th August 2018.

I strongly regret that we are going around in circles and your email is completely misleading. It seeks to infer that I am delaying matters by not allowing you access to undertake a survey and /or that I should be providing you with plans. this is , with respect, incorrect and professionally misleading.

please be under no illusion of the facts:

1. I informed you from march to july that your application was invalid. Arun have now confirmed it was invalid and a new application Notice has been issued. so your email below is misconceived in that regard;

2. you continue to infer (incorrectly) that it is solely i who requires accurate plans. Please read (as I have suggested you should) the aha! objection dated 1st Aug 2018 which states inter alia that the county highways office, and numerous other statutory consultees require further plans, reports and submissions (from your email below it appears you are not aware of this). any determination prior to such reports being forthcoming will be procedurally ultra vires so your email is misconceived in this regard; and,

3. the county highways office (and others) has agreed with me that the plans accompanying the application are inaccurate. Surely you appreciate that Inaccurate plans mean, de facto, an invalid application. im astonished that you not wish to understand this point? It is not only me suggesting your application is invalid it is the highways officers and other consultees.

From your completely misconceived and extraordinary email below, I can only imagine you have not read the statutory consultates responses nor the aha! objection nor the town council objection .

once again, I repeat: once you have submitted an application or at the very least plans that the statutory consultates deem accurate, we can then undertake a light survey and a discussion can commence. presumably you understand that if your plans are incorrect (as stated by the consultees) that might move the position of the building which will in turn alter the impact of the sun path analysis and de facto the result of the rights of light survey.

Stage one is for you to submit accurate plans acceptable to the LA and the statutory consultees;

stage two is for me to accept they are accurate and/ or challenge them ; and,

stage three is to undertake a rights of light survey based on accurate plans.

Any other chronology is nonsensical.

I really dont know how to explain this any other way and I remain completely bemused that you appear to be in complete denial about your glaring unwillingness to submit valid/ accurate and compliant plans.

I will be in touch again once you submit accurate plans.

Adrian.

On 14 Aug 2018, at 17:57, Peter Tanner [REDACTED] wrote:

Adrian

Thank you for your email of today's date.

I do not accept your assertion that our planning application is invalid.

It is for the Local Planning Authority to determine whether they consider they have sufficient supporting information to be able to properly consider the planning application. Any request for additional information to accompany a planning application should be reasonable and proportionate to the proposed development. You appear to believe that further supporting information is necessary to enable this planning application to be properly considered. However, the LPA have not requested us to submit any further information at this time other than that which we have already submitted. If you would be so kind as to set out what additional information you

believe is necessary for the application to be determined and the reason why you believe this additional information is necessary I would be more than happy to give it my consideration.

I see no reason why an invitation to visit your property by our surveyor should be conditional on us providing further supporting information in respect of the planning application. In positive response to your concerns over daylight and sunlight for planning purposes and in respect of Right to Light, I had offered that our surveyor measure your property so that we can verify whether BRE have erred in their assessment of the daylight and sunlight guidance for planning and in respect of their Right to Light assessment. Until proved otherwise I have no reason to doubt the validity of BRE's findings. If you now do not want to extend an invitation for us to measure your property, so be it.

You allege that your measurements and advice received from your surveyor indicate a breach of your Right to Light. If that is so please provide that evidence to me and I will gladly have BRE and our lawyers to appraise it. Until proved otherwise, we have a proposed development that we can and will deliver subject to planning permission being granted.

Far from being unwilling to listen to you over your concern that the proposed development might result in a potential breach of Right to Light enjoyed by Riverside House, I have patiently listened to you and have carefully read your numerous emails. However, if you are not prepared to either present your evidence or at least provide access to your property so that we may properly assess your allegations it will be difficult to see how this can be resolved except through the courts.

Accordingly, I once again invite you to provide me with some times and dates when it would be convenient for our surveyor to visit your property. In addition, please provide me with your consultant's Right to Light Assessment so that we may test those findings so that we can move forward positively.

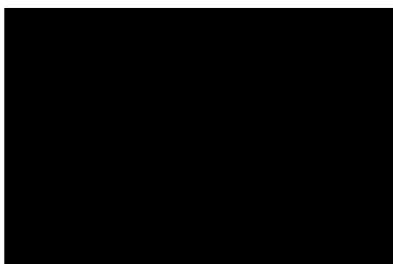
Peter Tanner

Planning Director



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On Tue, 14 Aug 2018 at 11:31, Adrian Burrows [REDACTED] wrote:

Dear Peter,

I hope this email finds you well.

-You will presumably have seen the objection lodged by the AHA! campaign group dated 1st August 2018.

- if you would provide the documents required to make the application Valid and also if you would supply the documents requested by the statutory consultees you could then undertake a site visit and survey at riverside house to properly assess your proposed breach of my rights of light .

-You will appreciate that the breach of rights of light pursuant to the prescription act 1832 will make the site "non deliverable" and deliverability is now a strict test pursuant to the NPPF published a few weeks ago. An application that flagrantly breached NPPF's is liable to be called in. You will appreciate that your application is already liable to be called in on many other groups already.

-To avoid breaching NPPF requirements, It will be crucial for you to demonstrate, prior to determination, beyond reasonable doubt, that no breach of rights of light has occurred or will occur as a consequence of the proposed development.

-I repeat, my measurements and the advice received from our surveyor indicate your proposals remain in breach, but once again, I request you provide accurate topographical plans, layout plans and elevations.

- please accept this email as formal NOTICE that I propose to register the Rights of Lights enjoyed by Riverside House over the property at Blastreat by way of an entry on the register at HMLR. Your lenders and any subsequent owner will be alerted to this entry when they search the title. I serve you this advisory NOTICE so that my position in respect of Costs is protected in the usual way. Further, you will recall that I have made my position in respect of R of L very clear since early 2017.

-I accept you have been unwilling to listen to me in respect of your breaches of validation requirements and the consequence is that you have now wasted from 30th March until 11th June (at least) progressing a demonstrably invalid application. surely you will now listen to me in respect of your defective plans in view of the fact that Highway Officer has stated your plans are defective and also listed to me in respect of rights of light?

- for the record, my position remains that your application remains invalid.

I look forward to hearing from you once you have accurate plans and you wish to undertake a rights of light survey.

Adrian.
Adrian Burrows
[REDACTED]

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Adrian Burrows



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