

[REDACTED]

[REDACTED]

From: Adrian Burrows [REDACTED]
Sent: 18 October 2018 10:57
To: Anita Gardner
Cc: Ziyad Thomas
Subject: Fwd: aha! NOTICE of Breach of Planning Law and alleged Criminal Offence

Dear Anita,

each of the references to land owned by BT in the below email should also include the words “..... and 1 fitzalan mews, according to the only plan produced by the applicants that show a visibility splay”

Begin forwarded message:

From: Adrian Burrows [REDACTED]
Subject: aha! NOTICE of Breach of Planning Law and alleged Criminal Offence
Date: 18 October 2018 at 10:48:21 BST
To: Anita Gardner <Anita.Gardner@arun.gov.uk>, Ziyad Thomas [REDACTED]
Cc: Karl Roberts <Karl.Roberts@arun.gov.uk>, Neil Crowther <Neil.Crowther@arun.gov.uk>, Town Clerk [REDACTED]

Dear Anita,

We had hoped that by now the application at 14 Fitzalan RD would have been withdrawn or you would have requested further information

However, we are regrettably forced to write to complain once again, in respect of the fact that the applicants have submitted yet further bulky evidence (circa 24 pages), in the form of a Development Appraisal Report dated oct 2018. This is not the only document that has not been forthcoming from the applicants in time for consultation (or in some cases at all), including and not limited to : a hydraulic capacity study; correct highways compliant plans (showing pedestrian

visibility plays & turning areas); tree reports covering all RPA's; accurate plans showing disc antes to adjoining property; accurate light reports; accurate planning application forms and so on.

the public , statutory consultees and perhaps most importantly the LA's housing officer have not been able to assess this latest "development Appraisal" and we now have no time to assess it before the determination deadline on 19th oct 2018.

Consequently you will be writing your report without having the information properly scrutinised.

A fresh consultation period and a new advertising period must now be set without further delay.

If this is not done, the application is unlawful, and also, importantly, maybe proceeding a manner that is aiding a criminal Offence as defined by the Magistrates Act 1980 as follows:

1. it breaches para 43 of the NPPF dated July 2018 which is enshrined in the Town & County Planning Act 1990 (as amended) at section 36.

For ease of reference I quote :

para 43 of the NPPF :

"the right information is crucial to good decision making, particularly where formal assessment are required (such as Environmental impact assessmentFRA....etc)" "to avoid delay, applicants should discuss what information is needed with the LPA and expert bodies as soon as possible"

The applicants have not presented the "right information" in a timely manner so you are unable to make a properly informed "good decision".

The interpretation of the second sentence of para 43 is important. it states that "to avoid delays, applicants should discuss...". The correct interpretation is that if applicants fail to discuss what information is required, it will lead to "delay". Otherwise, the purpose of the phrase "to avoid delays" is of nil value.

Consequently, the LPA should not fear any ramifications from delaying the application , indeed the LPA is entirely entitled in law to delay any application which does not provide all necessary and proportionate information in time for public and consultee scrutiny. We accept there is a measure of proportionality but this must be read in conjunction with the guidance that states proportionality is dependent on the level of public interest. In this case, AHA has 2000 supporters.

2. Para 37 of the " Guidance on Information Requirements and Validation published by the DCLG in March 2010 (as amended) states inter alia:

"Notwithstanding the advice in paragraph 34 above, local planning authorities occasionally do not validate applications on the basis that they consider the quality of the supporting information to be inadequate. In such circumstances, applicants may appeal to the Planning Inspectorate (PINS). PINS decisions on some of these 'non validation' cases can be made by way of a desk exercise and exchanges of correspondence"

There is clearly scope for the LPA to declare the application non valid and there is a mechanism for the applicants to appeal.

3. para 48 states inter alia:

"a site plan should accurately show :

c) all the buildings, roads and footpaths on land adjoining the site including access arrangements;

e) the position of all trees⁸ on the site, and those on adjacent land "

the application does not accurately show the distances from the site to riverside house. nor does it show any of the trees on adjacent land under TPO's nor does it show access arrangements such as visibility splays.

4. Section 65 . 5) of the Town and Country Planning Act 1990 states:

" (5)A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied"

This para must be read in conjunction with para 46 of the Guidance which states:

"The application site should be edged clearly with a red line. It should include all land necessary to carry out the proposed development – for example, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings. "

Importantly the site plan fails to outline the visibility splays facing south west along fitzalan rd i red. if the splays had been outlined in red, it would show that it crossed land owned by BT.

Consequently BT should have been served an ownership certificate: according to the application forms, BT have not been served an ownership certificate. This appears to be a major and flagrant breach of section 65 (5) of the 1990 Act and is unlawful. Serious questions must be asked as to why the visibility splays have not been added in spite of many requests that they be added. It follows that the applicants are aware that they do not own or control the land over which the visibility splays extend and consequently it appears they have deliberately sought to recklessly fail to fill out the "ownership" certificates properly in the knowledge that it would render the application undeliverable.

5. section 65 (6) states that the applicant , Mr Ziyad Thomas of Renaissance Homes Ltd, appears to have committed a criminal Offence :

"6) If any person—

(a)issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or

(b)recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particularhe shall be guilty of an offence.7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale"

Consequently, for the reasons above and reason stated in previous correspondence we submit that the LPA incorrectly validated this application which remains invalid and unlawful.

6. The LPA has the power to declare this application as "non valid" in accordance with para 39 of the guidance which states:

"Where it is found that an application was not valid because the information provided is wholly inadequate to enable a decision to be made, it reverts to the Authority for consideration."

Conclusion:

There is simply no excuse for this unlawful breach of section 36 and 65 of the Town and Country Planning Act and we once again formally request this application be set aside without delay. If this application is not set aside or at least proper attempts are made to resolve the breaches (in law) the Aha! campaign group will be imminently taking steps against the applicants via the courts in respect of the alleged breach of section 65,5) and 6). serious questions will be asked of the LPA

as to why this matter has been left un challenged for some 6 months in spite of AHA's professional and evidence based representations in respect of this.

Please will you refer this letter to your in house counsel and confirm what steps are now being taken in respect of this important and urgent matter.

Your sincerely,

Adrian Burrows

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Adrian Burrows

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