



Your reference

Our reference SW//lc

Date 8 January 2018

Ms Patricia Miranda
Policy Officer
PPR Project
Ground Floor, Community House
Citylink Business Park
6a Albert Street
BELFAST BT12 4HQ

Dear Ms Miranda

Thank you for your letter of 23 November 2017. I apologise for the delay in replying but as you will appreciate pressure of other work and the extensive nature of your correspondence has prevented me from replying before now.

I note that your letter purports to double as a complaint and pre-action correspondence. In the first instance, given the nature of your correspondence, I have decided to deal with this directly with advice from the City Solicitor. In relation to the pre-action protocol aspect I am advised that correspondence setting out the issues was received well outside the period permitted for seeking leave to initiate proceedings. Taking each of the issues raised by you the Council would respond as follows:

1 Undeclared interest in the site

Declarations of interest are a matter for individual Members and the code of conduct is enforced by the Commissioner for Local Government Standards. Expressing a preference as you put it does not of itself constitute pre-determination affecting the decision made by Committee. In any event Councillor Hutchinson, with whom I have spoken, denies that he made comments as asserted in your correspondence.

2 Fraudulent Market Activity

The Council is aware of a market operating at the site. It has made its own enquiries to identify those responsible for organising it without success. The operation of the market

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infringes proprietary rights which the Council holds. It is not accepted that this played any part in the decision making of the Committee. In fact, in reviewing the relevant minutes and the committee reports, no reference is made to this at all. Accordingly, this assertion is made without any reference to the facts or evidence to corroborate such a position.

3 Planner's inconsistency regarding the status of BMAP

It is not accepted that the planners have acted in any way other than cognisant of the correct legal position of planning policy and the status of BMAP. As a matter of fact, the Council is very intimate with this issue as it was the successful party in a challenge regarding its purported adoption by the Executive in the Court of Appeal. Whilst BUAP is the current adopted local development plan, the reality is that BMAP when read in conjunction with ministerial statements, is to be treated as having greater weight. Your assertion that BMAP was disregarded in relation to the application at the Gasworks ignores the fact that the Council had determined to proceed on the basis of a mixed use development and that the site, which is currently the subject of a master planning exercise, contains a significant social housing dynamic. It also needs to be remembered that those advocating for social housing on that site accepted that not all of the site was required for that purpose.

4 Key policy failings

With respect, the Council is of the view that your assertions in this regard ignore, to a greater extent, the legal parameters within which it was exercising its decision making powers. The application before the Committee was essentially to amend the physical layout of that which was already constructed and for which planning permission had been given before that function transferred to the Council. The decision was in accordance with the zoning in BMAP and consistent with the planning precedent created by the earlier decision. Moreover, this is a site which is in private ownership in respect of which the landowner also has rights enforceable at law. The Committee was required to deal with the application that was before it and not to engage on some speculative basis on an application that was not before it in respect of social housing. Essentially what your objection required of the Council was for it to engage in a rezoning of the land in question for which there is a process and in respect of which there are mechanisms for public engagement.

5 Key procedural failings

The Council appreciates that you have looked at Development Management note 16 in a very literal way. The Council would be of the view that not to have dealt with these applications concurrently when they both relate to amendments to the physical layout of the retail park would have been absurd.

6 Information was withheld from the public before the vote, obstructing their involvement in the decision-making process

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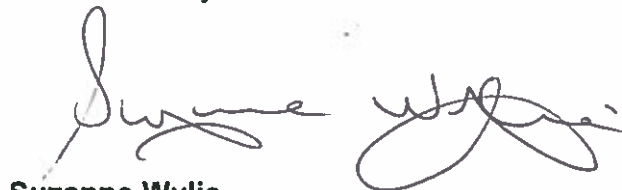
The Council accepts that there are certain limitations with regard to the planning portal which it is currently engaged in addressing through an alternative platform. The tenure of your correspondence would tend to suggest a deliberate attempt to obstruct the public from accessing material or the delayed publication of representations from objectors. The Council finds that such an accusation is unfounded and not supported by hard evidence. What is entirely clear is that there was no impediment to any person who wished to make an objection prior to the application being dealt with.

7 Information was withheld from Belfast City Council Planning Committee members

It is not accepted that information was withheld from Committee members. The Council did not receive any approach from a social housing provider articulating an interest in the Hillview site. In any event a purported interest by the Housing Executive was referred to at committee. It was suggested that some interest had been shown by the Housing Executive in relation to the site in 2014. In that regard it is notable that this purported interest had not subsequently materialised. In short the statutory body with responsibility for housing had not pursued any interest in the site and it is to be remembered that that organisation has the power to vest land for the purpose of housing provision. In any event the Council had been dealing with the application, as I have said, before it and in my view acted properly and within the law. It took all material considerations into account. The issue of local retail objection is expressly referenced within the reporting officers report and was therefore before the Committee.

In light of the contents of this response I will not be convening an independent inquiry. I am satisfied that the process was fully compliant and indeed transparent. The Council is of course cognisant of issues relating to housing need and stress and these are factors which will be given full consideration in the context of the local development plan.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Suzanne Wylie', written over a horizontal line.

Suzanne Wylie
Chief Executive

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