

COMPLAINT REGARDING THE HANDLING OF PLANNING APPLICATION(S) IN RESPECT OF THE FAIRMONT HOTEL, ENGLEFIELD GREEN

Synopsis of report: This report sets out a response to a complaint by Cllr Berardi and Englefield Green residents concerning the treatment and processing of planning applications by the Planning service. It is alleged that the Planning service did not follow a due process in respect of the handling of a planning application relating to tree houses in the grounds of the Fairmont Hotel. The complainant also refers to a previous planning application regarding the hotel itself and related facilities.

Recommendations: That members consider the response prepared by the Council's Monitoring Officer and Mr Keith Holland and formulate a response to Cllr Berardi and local residents.

That members instruct the Chief Executive as to the message to be conveyed to Planning officers and publication of the response to the allegations raised in the complaint.

1. Context and background of report

- 1.1 A substantial and very detailed complaint was received in February from Cllr Andrea Berardi regarding the application by the Arora Group in respect of tree houses within the grounds of the Fairmont Hotel, Englefield Green. The complaint was backed by a long report from some concerned residents of Englefield Green. The complaint is largely to do with the process and advice afforded to the Planning Committee by the Planning service. It is critical of officers and alleges bias in favour of the application and suggests that members were not presented with a fair description of all of the facts relating to the planning application and that subjective information was presented which did not reflect national and local policy, nor the strength of feeling of local residents. A previous planning application is referred to (i.e. the substantive planning application relating to the build of the Fairmont Hotel itself and ancillary facilities).
- 1.2 There are two key aspects to this serious complaint. The first relates to the process and application of national and local policy in relation to information laid before the Planning Committee. This includes interpretation of policy and guidance by planning officers and presentation of the issues balancing economic development against protection of Green Belt. To ensure that this Committee was furnished with an independent assessment of the professional application of policy and its interpretation, an eminent consultant, Mr Keith Holland was appointed to produce a report. Mr Holland is a former Planning Inspector with over 40 years' experience, either as an Inspector, Chief Planning Officer, or a consultant. He is highly regarded in his profession. He was completely unknown to the Council until sourced by the Chief Executive. Mr Holland was given a brief to review the complaint and reports to the Planning Committee and to undertake a site visit to the Fairmont Hotel. He conducted interviews with relevant officers too. It is stressed his observations and findings are completely objective and reflect his professional opinion. Mr Holland's report forms an appendix to the report of the Monitoring Officer.

1.3 The second aspect of the complaint is concerned with potential impropriety or maladministration in respect of the Fairmont applications. These matters have been investigated by the Council's Monitoring Officer, Mr Mario Leo and his findings are set out in a report which is Appendix A to this report. Again, it is stressed that Mr Leo's findings are entirely objective.

1.4 The reason for dealing with this matter quickly is the extent to which this serious complaint could demoralise the Planning service and have a damaging impact on what has been to date a very high performing service. The service continues to be very busy with a high volume of applications some of which will inevitably be controversial. The Chief Executive's concern is to ensure that whilst giving serious attention to the allegations and opinions of local residents, led by Cllr Berardi, a fair judgement is applied to the facts of this case based on expert opinion. This needs to be done quickly and positively.

2. Report and, where applicable, options considered and recommended

2.1 The processing of Planning Applications is one of the functions undertaken by a local authority which will generate a great deal of public interest. Planning Applications can generate strong reactions because at their very heart they impact the physical environment people live in.

2.2 Whilst elected members are involved in the determination of Planning Applications they are normally not qualified town planners and will rely on advice provided by officers to assist them in arriving at decisions. Any criticism of the approach taken by officers will have a serious impact on the reputation of a local authority and the trust the public has in it when dealing with Planning matters.

2.3 In addition, if claims are made that local authority officers have acted in an unlawful manner then such claims must be considered with the utmost urgency for a number of reasons. Claims of this nature can have a major impact on the well-being of officers because their reputation, and more importantly liberty could be at stake.

2.4 The Council has dealt with this matter by appointing its Monitoring Officer to investigate the matter and providing him with the support of a highly qualified Town Planner.

2.5 The Council's Monitoring Officer is a qualified solicitor of many years standing who has experience of dealing with criminal law, public law and planning law matters.

2.6 The report prepared by the Monitoring Officer considers in detail the issues which have been raised, sets out the law which relates to those matters and reaches a conclusion on the issues.

2.7 In summary the Monitoring Officer has concluded that the material which was submitted does not disclose evidence of maladministration on the part of the Council or unlawful actions on the part of officers employed by the Council in relation to the Planning Application concerning the construction of tree houses at the Fairmont Hotel site.

3. Policy framework implications

3.1 The maintenance of public confidence in the way in which the Council discharges one of its major functions and the integrity of its officers is of vital importance to the Council serving its residents.

4. **Resource implications/Value for Money (where applicable)**

The work associated with this matter was undertaken by Council officers as part of their normal duties.

5. **Legal implications**

5.1 The report of the Monitoring Officer, which is an Appendix to this report, sets out the relevant legal issues associated with this matter.

5.2 Whilst the Council has undertaken its own investigation into the matter and reached a conclusion because a claim of maladministration has been made it is open to the people who made such a complaint to refer the matter to the Local Government Ombudsman (LGO). It will be a matter for the LGO to decide if they investigate the matter.

6. **Equality implications**

6.1 There are no equality issues associated with this report.

7. **Environmental/Sustainability/Biodiversity implications**

7.1 There are no environmental or sustainability issues associated with the conduct of the investigation which is the subject matter of this report.

8. **Other implications (where applicable)**

8.1 Whenever serious allegations are made concerning the actions of a local authority or the conduct of its employees, they should be investigated in an appropriate manner to ensure public confidence is maintained.

9. **Timetable for Implementation**

9.1 There is no timetable associated with the matters covered by this report.

10. **Conclusions**

10.1 The consideration of Planning Applications and the conduct of local authority employees is a matter of great public concern. Whenever a complaint is made which relates to either of those matters it must be investigated. In the present case serious allegations were made which have been investigated by individuals who have the appropriate qualifications and experience to undertake such matters. The conclusions reached by those individuals is that there is no evidence to support the claims which have been made.

To resolve

Background papers