

Wiltshire Council

Cabinet

18 October 2011

Public Participation

Question from Mr Michael Sprules, - Chairperson RADAR (Residents Against Development Affecting Recreational Land)

Question

False And Misleading Information Submitted Within A Planning Application Form And Supporting Documentation

Cabinet Members and attending Elected Members

Over the past year, you have all been very kind in affording me much of your very valuable time, not just in answering my questions but also in the time that you have afforded to me after the close of Meetings.

When I leave Cabinet, I spread the word about how Wiltshire Council Cabinet wish to engage more with all Members of the Public, including those of us from Residents' Associations also.

Many of you will be aware of the question that I have recently asked to the Rt. Hon. Eric Pickles M.P., regarding a "**Letter of Directive**" and a possible amendment to the new National Planning Policy Framework.

My question to the Rt. Hon. Eric Pickles M.P., concerns the submission of "False and Misleading information", within a Planning Application Form and Supporting Documentation, that could, lead to unjust influence in the outcome of a "Recommendation" or, indeed, a "Decision", taken by any Local Planning Authority.

The interim "Directive" suggestions are as follows : -

Directive One

Before "**Granting Permission**" for an application, in particular, for a "**Sizeable Residential Development**" (i.e. - More than 10 Dwellings), the Local Planning Authority **MUST** check that all information supplied within the Application Form and Supporting Documentation, as provided by the Applicant and / or the Applicant's Agent, is true and correct.

Directive Two

If it can be proved that an Applicant and / or Applicant's Agent has been untruthful in the information supplied within the Application Form and Supporting Documentation, then such an application should be **dismissed outright** with **no right of appeal** and **no right to submit an amended application on the same site, for a similar development, at a later date !!**

Such legislation already exists in "Employment Law". Therefore, it does seem only right and just that similar legislation should exist in Planning Law also.

Taking the above "Suggested Directives" into consideration, my question to Cabinet is :

If information contained within any Planning Application, submitted within the four Wiltshire Council L.P.A. s, could be proven to be "False" or, indeed, "Misleading", thus leading to the possibility of an unjust influence, in favour of the Applicant, then what measures would be taken by Wiltshire Council to deal with such applications – along the lines of "Due Diligence" for example ?

May I, once again, thank Cabinet Members and, indeed, Elected Members for allowing me to ask this question.

Response

The Council starts from the basis that the information submitted in support of a planning application is correct. This is normally the case and the courts have said that to require Councils to check the accuracy, for example, of the ownership certificates in every case would be to impose too heavy an administrative burden.

If a third party questions the validity of submitted information the Council will always ask the applicant/agent for comment. If the applicant/agent confirms the information provided is accurate the authority notes this and normally accepts it at face value. Similarly, if third parties make statements that the applicant questions, a similar approach for clarification will be made.

If an applicant says a site will generate 5 lorry movements and a third party says it will generate 25, the planning case officer will question the applicant and if there is any suspicion one option is to impose a condition limiting movements. If the condition is then breached, it is then open to the authority to take enforcement action. The authority cannot refuse permission on the basis of what it suspects may occur. Decisions have to be based the information submitted with the application.

Decisions can be overturned by the courts - In a 2004 planning decision in Salisbury the applicant for planning permission had failed to notify the owner of part of the application site, and had completed a false certificate of ownership which wrongly certified that he owned the whole of the land covered by the application. The court quashed the subsequent grant of planning permission.