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29th July 2016

**Formal Complaint against Cambridge City Council (CCC) – Planning Services**

I write further to your email of complaint sent to me on 27<sup>th</sup> May 2016 in respect of a service complaint 659472, concerning the retrospective planning permission granted for a barrier at [REDACTED]

Your complaints have not been resolved at stage 2 of the City Council's procedures and were passed to me for an independent review; I have now completed my review and set out my findings, conclusions and recommendations below.

**My role**

My role is to investigate complaints concerning administrative and procedural actions and decisions that have failed to be resolved at departmental level. As the Independent Complaints Investigator I try to resolve the matter as the final stage in the City Council's internal complaints procedure.

**Your complaint**

Your complaints to me concerned the fact that in your view there were faults in the process of assessing and presenting the application to the Planning Committee which resulted in them reaching an unsound decision based upon an inaccurate assessment of the planning application. In that regard you feel overall that the City Council has been negligent in handling this planning application.

In terms of identifying specific complaints to support your view you have identified to me six areas where these failures have occurred. I have summarised these in the general complaint headings below and in the body of my report I have explored in some detail each area in order to arrive at an individual and collective finding.

## **Specific Complaints Summary**

**That Cambridge City Council in processing planning application 16/0117/FUL) made the following process errors which impacted on the Planning Committee being able to reach a sound decision:**

1. The case officer failed to properly assess your photographic and video evidence which was not looked at and therefore not considered. If the case officer had looked at the evidence then the officer report would not have been incomplete, inaccurate and biased.
2. The case officer presented incorrect information in the verbal briefing to the committee. This information included incorrect numbers and location of objectors; lack of information about 'yellow lines' on the road, [REDACTED] statement about a 'dead end' should have been corrected and failure to mention a police report.
3. Comments by [REDACTED] about lobbying should not have been posted online and the case officer report should have referred to police efforts in the past to stop mopeds riding on the pavement to avoid the barrier.
4. The Environmental Health Officer should have referred to your noise report in his comments. Why has the City Council not undertaken its own noise and disturbance survey if they remain unconvinced. How can the case officer criticise the absence of a noise study by the complainant before the barrier was installed when it was a retrospective application.
5. The case officer's report incorrectly refers to the barrier replacing a gate that previously secured the site.
6. The case officer's report should have referred to previous efforts by Councillor Tunnacliffe to mediate between the [REDACTED] residents and [REDACTED]

## **My Review**

I have received and considered copies of the correspondence you have supplied to me and from the Council in respect of these matters. I have reviewed the Council's process in handling stages 1 and 2 of the complaints procedure and the written responses provided to you by [REDACTED]

In addition, I have met and spoken with [REDACTED] in terms of the overall processes applied and normal best practice, and [REDACTED] who had knowledge of the application and reviewed the planning committee report by the planning officer [REDACTED] before it was placed on the Committee Agenda.

I have also reviewed the Pre-Committee Amendment Sheet prepared by [REDACTED] which contains additional information supplied to planning Committee Members prior to the case being discussed on [REDACTED]. I have also reviewed the report which was sent to members of the Planning Committee [REDACTED] and the minutes and voting decision in approving the application.

I have undertaken a general site visit to orientate myself to the location and examined images and plans relevant to the application put forward to the planning committee. Given all the material made available to me I feel I am in a well-informed position to make my findings and recommendations.

## **Background Summary**

This retrospective planning application [REDACTED] was to install a barrier which had already been erected. The barrier sits at the entrance to [REDACTED]; it is located 6m further south than the gate which it replaced. The barrier spans the full width of the road but still allows pedestrian access and is 0.95m in height when closed and consists of a control box and rising barrier arm.

The application was the subject of a number of objections by local residents including yourself. These objections primarily cited concerns about loss of residential amenity. The key concern that has been raised by residents being the noise and disturbance associated with the use of the barrier.

A number of people also raised concerns regarding motorcycles/bicycles/mopeds mounting the pavement to avoid the barrier and access [REDACTED] and highway safety concerns concerning the small space left for turning at the bottom of [REDACTED] and an increase in the number of cars and vans parking at the bottom of [REDACTED].

The application was supported by a smaller number of residents overall including the landlord's agents. The reason for support included there has been a gate for many years which had been shut and regularly locked over the past two years. Prior to the erection of the barrier there were issues relating to damage to road surface/bollards/walls. In the past members of the [REDACTED] have had to stand guard to prevent vehicles entering [REDACTED]. The barrier was therefore felt to offer a much needed deterrent especially with the high usage of the boathouses at weekends.

As part of your objections you submitted a noise survey which was undertaken over the 4th to 8th March 2016. This indicated that [REDACTED] is a quiet cul-de-sac location where short high level events are enhanced by the low background noise. In addition you submitted a survey with video and photographic evidence of the type of disturbances you were encountering.

In commenting on these submissions the case officer indicated in her report to Planning Committee that their value was limited and commented that there was no previous noise survey undertaken against which to compare events. In addition that it was unclear whether these reports were selective to only monitor disturbances involving residents/visitors to [REDACTED] or whether this was an unbiased report of noise incidents.

On [REDACTED] the application was heard before the Planning Committee where the report was presented by the case officer and members of the public were able to make representations. The planning Committee's decision was to approve the retrospective planning by a majority vote of 4 to 1.

On 29<sup>th</sup> April 2016 you wrote to [REDACTED] about the planning decision and outlined what you considered to be faults in both the process of assessing planning application 16/0117FUL and its presentation to the Planning Committee.

[REDACTED] wrote back to you indicating that she had examined your complaint at stage 1 of the City Councils complaints procedures and had reviewed the application and discussed it with the case officer [REDACTED] detailed her responses to each of the matters you had raised and her overall conclusion was that she did not think that there had been errors in the process by which the decision to approve planning permission was made.

You were dissatisfied with this outcome and wrote to [REDACTED] on 4<sup>th</sup> May 2016 asking for a further review of the findings. [REDACTED] sent you an email on 26<sup>th</sup> May 2016 indicating he had reviewed your complaint at stage 2 of the City Council complaints procedure. [REDACTED] indicated that he had reviewed the case file and discussed its content with [REDACTED] the case officer. [REDACTED] provided his own responses to the complaints you had raised and his overall conclusion was that Planning Committee members were provided with the correct information and that the correct planning process had been followed.

You remained dissatisfied with the outcome of [REDACTED] findings and requested an independent review of the decision at stage 3 of the City Councils complaints procedure which involves me as the Independent Complaints Investigator. I have now concluded this review.

## **My Findings**

My findings are based on having now reviewed the available correspondence and records and having asked questions of key staff and other interested parties who have knowledge of this case and the processes applied in how this specific planning application was handled, assessed and progressed. I have undertaken this approach to determine if your case has been subject of any maladministration by the City Council. My findings are as follows:

**That Cambridge City Council in processing planning application [REDACTED] made the following process errors which impacted on the Planning Committee being able to reach a sound decision:**

**Complaint 1:** The case officer failed to properly assess your photographic and video evidence which was not looked at and therefore not considered. If the case officer

had looked at the evidence then the officer report would not have been incomplete, inaccurate and biased.

The response provided to you by [REDACTED] and [REDACTED] clearly indicates that the case officer [REDACTED] did not review the photographic and video evidence you submitted.

I can appreciate from your perspective that it is a reasonable assumption that where such supporting evidence is submitted that it will be viewed by those who are trying to correctly assess any given situation. In my discussions with [REDACTED] she accepted that it would have been helpful to have seen the evidence, but restated that the Planning Committee was aware the material had not been viewed. That was highlighted in the Pre-Committee Amendment Sheet prepared for members by [REDACTED]

I have made enquiries as to whether there were any Council rules that required case officers to access all the material submitted and I could not find any information or guidance in that regard.

[REDACTED] in his response to the same circumstances also commented that the case officer [REDACTED] had not viewed the material but relied upon the written summary of the events. He went into more detail quoting extracts from the Amendment Sheet where [REDACTED] confirms this explaining the digital format could not be accessed on City Council machines due to internet security issues.

The extract also clarifies that [REDACTED] felt the descriptive text was sufficient and had no reason to doubt the videos and photographs would not support the statements being made.

In terms of process, separately [REDACTED] do not believe the absence of viewing this material would have significantly affected the Planning Committee's decision.

It is my finding that factually it is correct that the case officer [REDACTED] did not access the material and she has outlined why this was the case. It is also factually correct that at the present time the City Council has no policy or written guidance on the extent to which case officers should pursue the reviewing of such supporting material. On that basis it would be correct to conclude on the balance of probability that the initial assessment of all the information you submitted was incomplete.

In respect of whether the non-viewing and assessing of this information might have led to the Planning Committee receiving an overall incomplete, inaccurate, biased report and recommendation my finding is as follows.

The Pre-Committee Amendment sheet submitted by [REDACTED] to Committee Members makes it clear the material has not been accessed and explains why. It would therefore be clear to Planning Committee members the limitations of the assessed material.

In respect of the final report and recommendation being based on inaccurate and biased information, the same Pre-Committee Amendment sheet does not question the likelihood that the video and photographs will not accord with the written statements you have made.

In fact the comments *'I have no doubt the videos and photographs back up the written objection and I do not consider it necessary to have viewed them formally to have reached my conclusion'* makes the point clearly to Committee members. On that basis [REDACTED] has accepted the accuracy of your submission and therefore it is difficult to see how this view can be biased against evidence you have submitted.

In these specific circumstances, I therefore cannot find that the non-viewing of the video and photographic evidence by the case officer led to the completion of an incomplete, inaccurate and biased report.

This complaint has however identified a gap in the written advice and guidance that is available to case officers, to ensure that there is transparency and consistency in the way that they are expected to assess and manage material submitted in a digital format.

Members of the public and third parties submitting representations about planning applications, whether in support or objection, should be clear on the approach the City Council takes to such material. In addition there should be some guidance on expectations in terms of how much material a case officer is expected to assess before arriving at an informed decision appropriate to the application under consideration.

Further that if it is decided some material may be excluded from assessment, due to the format in which it is presented, then there should be guidance which ensures the parties making the submission are notified of this and given the opportunity to resubmit that material or have it assessed in an alternative way.

The above observations from this case indicate there are some learning points for the City Council and I have articulated these at the end of my report for the City Council's consideration.

### **Complaint 1 Conclusion**

For the reasons set out above, I do recognise the non-viewing of the material you submitted does indicate an incomplete assessment of your representation.

I cannot however, on the balance of probability, given the content of the Pre-Committee Amendment report, uphold your view that in these specific circumstances this led to the final case officer's report being significantly incomplete, inaccurate or biased. Consequently I do not find that the Planning Committee was unable to make a sound overall decision.

**Complaint 2:** The case officer presented incorrect information in the verbal briefing to the committee. This information included incorrect numbers and location of objectors; lack of information about 'yellow lines' on the road; and [REDACTED] statement about a 'dead end' should have been corrected.

I have reviewed the representations made by residents objecting to the planning application against the comments the case officer presented to the Planning Committee alongside the responses of [REDACTED].

The points you have raised fall into three broad areas and my review and findings are set alongside each of the three points.

Firstly, the accuracy of only 3 householders complaining about the noise and disturbance from the barrier and that people living closest to the barrier had not complained.

In the representations made, it is correct to say that a considerable number of residents did object to the barrier. The objections however were broken down to a number of different concerns. It is correct a number related to noise and disturbance and the case officer cites [REDACTED] as examples. Other causes for objection covered a range of concerns ranging from vehicles having to mount the pavement to turn at the bottom of [REDACTED] to practical considerations such as there being no drop kerb for cyclists.

[REDACTED] and you were both at the Planning Committee meeting and there is clearly some disagreement on your individual recollection of what the planning officer actually said. You indicate the planning officer said *that 'people living closer to the barrier had not objected'*.

[REDACTED] recollection is that case officer did identify the three closest houses to the barrier, which fell outside the Beauland's Close complex. However the case officer did not say that objections were only received from occupiers of those addresses.

I am not in a position to make a finding on which recollection is correct and therefore need to rely on the aspects of each statement which are not in contention. My finding is that both interpretations indicated there were objections on the grounds of noise and disturbance and these did arise from residents in close proximity to the barrier.

Other residents made other grounds for objection and these may have varied in line with their own proximity to the barrier. It is my finding therefore, that the Planning Committee members would have been clear that these representations had been made and therefore would be an issue they should consider, in making their own minds up on the significance of the information.

Second, the lack of identification of existing yellow lines into a presented visual aid and the knock on effect of where traffic might then have to park up as a delivery base.

I note that [REDACTED] does not directly respond to this question in her stage 1 response but concludes that she did not think that *'the lack of specific reference to the arrangements of yellow lines undermined the ability of the Committee to appreciate that vehicles would need to park close to houses in [REDACTED]'* [REDACTED] supports this view.

It is my view that the question you pose has two aspects namely; should the yellow lines have been clearly referenced and referred to and secondly would their omission have led to the Planning Committee not understanding the need to consider the impact of vehicles that may need to park up near to the barrier if it was closed.

In respect of the first issue, I uphold your view that the yellow lines are an important factor in being able to place the impact of any parking up of vehicles in context. It is my view that it would have been better for the planning officer to clarify this feature existed.

In respect of the second issue as to whether this factor alone would have led the Planning Committee to arrive at a different overall decision and therefore this lack of clarification was sufficient to undermine the process I cannot conclude that this would be sufficient grounds to arrive at that outcome. It is relevant that Committee members aside of the reference to yellow lines, had already been presented with representations concerning the parking up of vehicles. Your own written evidence (discussed in complaint 1) which is accepted by the planning officer, references where delivery vehicles were parking.

My finding is that the planning officer should have specifically referenced the yellow lines to highlight their proximity to the barrier. However this omission alone, given the other available evidence presented in the committee report, was unlikely to have been sufficient grounds to infer that it undermined committee member's ability to make a valid and informed decision as you have suggested.

Third, the incorrect statement made by [REDACTED] that [REDACTED] is *'a dead end'* for traffic when in fact it allows access to the boat house and roadway beyond. In addition that there should have been reference to a police report / survey indicating the safety concerns of bikes, motorbikes and moped mounting the kerb to avoid the barrier and creating a danger to pedestrians and playing children.

[REDACTED] has agreed that that it is possible to walk/cycle through Beauland's Close and in that sense the access road is not a dead end. Having visited the site myself I agree it is not a dead end. [REDACTED] agree that the comments made by [REDACTED] were at that stage of the process, where the Committee had read the committee report and amendment sheets, listened to objector's views and



the case officer's presentation and response to questions. This was therefore at the stage where Councillors on the Committee were expressing their personal views.

It is not open to members of the public to contribute to the debate by Committee members but there is a role for officers to respond to questions and to correct inaccuracies. In this case however [REDACTED] made this comment and immediately moved to the vote leaving no opportunity for officers to interject. [REDACTED] took the view that it was not necessary to interrupt the Chair to correct the comment made because it was not fundamental to the decision that was about to be made.

## **Complaint 2 Conclusion**

Having broken down each of the elements of this particular complaint, I have set out the rationale for my findings accordingly. If the collective nature of these elements is considered it is my finding on the balance of probability test, that none of the individual element in this complaint amount to maladministration which would indicate an undermining of the Planning Committee decision or process. Consequently I am unable to uphold this particular complaint.

**Complaint 3:** Comments by [REDACTED] about lobbying should not have been posted online and the case officer report should have referred to police efforts in the past to stop mopeds riding on the pavement to avoid the barrier.

I have looked into this complaint and the appropriateness of the content of [REDACTED] on line comments. I have also looked at these comments which you indicated affected [REDACTED] decision to comment on the merits or otherwise of this planning application, based on a police survey around the safety issues of the barrier.

It is my finding that [REDACTED] comments are factually accurate from his perspective, as an employee of the Highway Authority. The comments plainly set out that organisation expectations that it cannot be seen to be party to any lobbying on behalf of individuals.

I do not therefore uphold your view that these were personal views or that it was not his job to make clear the Highway's Authority's position on what was being asked. In that regard therefore I do not find the content, or the fact that the comments were placed in the public domain detrimental to the application process. I note your reference to the fact that [REDACTED] are related. I have found no evidence of any conflict of interest in both parties approach to their professional role in this application process.

In respect of the case officer not bringing to the attention of the Committee members information about a police report, I can confirm that it is not usual for the Council to consult directly with the police on planning applications of this nature.

I also note that when you spoke to the police, the officer declined to comment. It is your view that Sergeant Wragg indicated to you that having read [REDACTED] comments on line that; *'he was not going to be lobbied by a member of the public to write comments on 16/117FUL'*.

This makes it difficult for any third party, such as the case officer or the Planning Committee members to rely accurately on what the police's actual position might be. I can appreciate that had the police chosen to contribute to the process formally, then this may have added support to the safety concerns of those making representation.

Whilst the case officer was therefore not able to actually reference any police perspective, it would have been open to those making representations in writing or at the Committee meeting on 27<sup>th</sup> April 2016 to raise this point.

I have not been provided with any information to indicate that this occurred during the meeting. If it did occur however then Planning Committee members would have had this information in their mind and could have considered its merits.

In respect of this element of your complaint; I do not agree that the case officer deliberately or intentionally withheld this information as you suggest. I accept that the case officer may have been aware of a police report, but with the police declining to comment on its content, its mere existence is of little value to Committee members if it cannot be properly referenced or relied upon.

Consequently I do not find that its mere existence would have been of such significance that *'there would have been a different outcome because of the revealed safety issues'* as you suggest.

### **Complaint 3 Conclusion**

Having examined both elements of this complaint it is my finding on the balance of probability test that there is no evidence to support your view that [REDACTED] comments were inappropriate and should not have been in the public domain where he and his agency have made clear their position on not being drawn into lobbying.

In respect of the police choosing not to make comments about their own safety survey, I accept some report may exist but the fact that the police felt unable to be drawn on the content, makes it difficult for the case officer to present this issue with any certainty. The mere notification of the reports existence is of little tangible value to Planning Committee member's decision making.

Consequently my findings are that neither of these elements amount to maladministration or would have been able to form the basis of a refusal of planning permission. I do not find that they amount to a 'major failing in presenting the whole picture' as you suggest. I am unable therefore to uphold this particular complaint.

**Complaint 4:** The Environmental Health Officer (EHO) should have referred to your noise report in his comments. Why has the City Council not undertaken its own noise and disturbance survey if they remain unconvinced. How can the case officer criticise the absence of a noise study by the complainant before the barrier was installed when it was a retrospective application.

I have noted the responses provided to you by [REDACTED]. In particular, I have focused in on [REDACTED] comments that the case officer [REDACTED] worked with [REDACTED] an experienced Principal Planner to review the EHO comments. Additional information is then provided to the Planning Committee members by way of a Pre-Committee Amendment sheet. [REDACTED] indicates that this *'is a reasonable alternative to providing further information to the EHO'*.

I have reviewed the EHO report and in that context the information in question being sought concerned a range of factors. The ECO also posed independent questions, such as potential noise disturbance arising from vehicles stopping within the site, being shifted to and concentrated outside the site in De Freville Avenue. I have noted these comments support some original representations made that when the ambient noise is low at night for instance, taxis leaving their engines running and headlights on while waiting to collect passengers outside the barrier, does lead to some loss of amenity for residents in the immediate area. I also note the EHO's advice makes reference to a possible remedy. That being a condition to ensure the barrier is raised between the hours of 23:00 and 07:00 hrs, as the most significant impacts will occur at night.

With these considerations in mind, I met with [REDACTED] to discuss the re-assessment he conducted with the case officer and how reasonable and fairly this was represented in the Pre-Committee Amendment sheet, that was submitted to Planning Committee members in advance of the planning meeting.

In that regard my findings are as follows: [REDACTED] confirmed that [REDACTED] initial Planning Committee report had identified the level of representation concerning noise as a real issue and one which may make it possible to refuse planning permission on the grounds of impact of noise. Whilst I have already covered the non-viewing of some of your submitted video evidence, I note that in the context of noise that the case officer commented in the report:

*'The objector (yourself) supplied both written information and videos/photos of incidences of noise disturbance to me as part of their original objection' and further; 'I reviewed the written information and took this into account as part of my recommendation. This written documentation of noise disturbance to no. [REDACTED] provides details of what is contained within the video/photograph files... I have no reason to doubt the videos and photographs back up the written objection and I do not consider it necessary to have viewed them formally to have reached my conclusion'.*

On that basis I find that [REDACTED] initial report was properly cognisant of the noise issue.

I then discussed with [REDACTED] how he and [REDACTED] had assessed the value placed on the noise study you conducted and how this together with the ECO views/comments were interpreted to reach a final recommendation. My findings on this aspect are as follows.

[REDACTED] indicated that the noise report you supplied was taken seriously. It was recognised by [REDACTED] that the survey carried out over the weekend of 4 – 8 March 2015, from outside the bedroom window of [REDACTED] was relevant. For this reason the Pre-Committee Amendment sheet contained the following information for Committee members.

*'It records 9 separate noise events over the 5 nights, between the hours of 11pm and 7am (night time hours) above a threshold of 60 dB LAMAX (the recognised threshold above which, if windows are left open for ventilation, sleep disturbance may begin to occur), which were noted by the occupant of no. [REDACTED] as having caused disturbance. These incidences relate to vehicles stopping at or turning at the barrier, including a number of taxis. Waiting taxis and taxi customers exiting on [REDACTED], together with taxi drivers' speaking on their telephones, all appear to be issues for the objectors, as well as more generally cars and at other times during the day home shopping deliveries.*

*I have no reason to doubt the fact that the incidents recorded in the noise assessment have occurred and have caused disturbance' It is my finding that this is a full and fair representation of the facts arising from the survey and Committee members would be very clear that the noise representation was a genuine concern.*

I discussed with [REDACTED] the interpretation you had placed on the issue of the case officer's report appearing critical that you were unable to conduct a pre barrier installation report. [REDACTED] was clear that this was not meant to be critical, but was a factual observation, to indicate there was no opportunity to compare before and after scenarios. I have looked again at the wording used by [REDACTED] and reviewed by [REDACTED]

*'I acknowledge that it is not possible to expect the objectors to supply a report assessing noise levels prior to the installation of the barrier. It is my view that this is not a criticism of your actions. In respect of the follow on text 'However this does not give me a means by which I can compare before and after scenarios'. I find this is a factual statement and again implies no criticism of your actions.*

Looking at this particular complaint your assertion is that the case officer's report is 'unconvinced' about the noise issue and therefore you ask why the Council did not commission a separate report of their own.

In discussing this with [REDACTED] it is my finding that the references to the above narrative from the Pre-Committee Amendment sheet, does indicate the noise to be a genuine issue. The role of the case officer is to assess in planning legislation and planning policy terms whether its existence causes 'sufficient harm' to justify a

refusal of planning permission on these grounds. [REDACTED] was directly involved in reviewing [REDACTED] rationale for her recommendation and the additional information supplied to Committee members by way of the Pre-Committee Amendment sheet.

The Amendment sheet clearly indicates the process of assessment, which fairly considered the following information; The EHO views, and the feasibility of imposing conditions for the barrier to remain up after 23:00hrs, the EHO's comments regarding the impacts of road traffic noise in relation to statutory nuisance and the enforcement powers available to the Council, the benefits of the installation from the applicant's perspective, and importantly the applicant's available fall-back position.

This latter consideration is very relevant in planning terms, as the applicants would also be in their rights to install an automatic swing gate 1m or below in height. This would result in the same noise issues from occurring and would result in the Council having no control over the operation of the gate. Retrospective planning was primarily required in this case as the barrier arm when raised is above the 1metre permitted under permitted development.

I also note the case officer's remarks to Planning Committee members in the Pre Amendment sheet with regard to the imposition of conditions as suggested by the EHO and noise consultant. *'10 officers considered this was not reasonable because of the previous and possible fall-back positions available to the applicants.'*

#### **Complaint 4 Conclusion**

In respect of this particular complaint, it is my finding that the case officers Committee Report and Pre-Committee Amendment sheet, did provide the Planning Committee members with evidence of a fair assessment of the relevant facts, linked to the applications merits or otherwise. Further that this approach was a reasonable alternative to providing further information to the ECO.

I find that your noise concerns were recognised and accepted by [REDACTED] and [REDACTED]. However in the round the case officer considered that the noise impact associated with the use of the barrier from the perspective of sufficient grounds to justify a refusal of the application was limited. The accepted nuisance and loss of amenity was primarily confined to the night-time and when bedroom windows were open.

Applying the balance of probability test it is my finding in respect of the elements of this specific complaint, that there is insufficient evidence to indicate that the City Council has not fairly or properly followed its planning assessment process, or that it is indicative of 'faults in the process of the council' as you have suggested. For these reasons set out above I cannot therefore uphold this specific complaint.

**Complaint 5:** The case officer's report incorrectly refers to the barrier replacing a gate that previously secured the site.

I have examined the case officer report where this issue is mentioned and the comments made by [REDACTED] and [REDACTED]. I can appreciate that there is an inference the previous gate may have been primarily closed and therefore akin to a barrier which permanently down.

I note that [REDACTED] comments that Google maps, indicates that the gate in place prior to the barrier was open. In reviewing the case officers report I note that at paragraphs 8.9 [REDACTED] makes it clear that 'the gate which was previously installed was left open much of the time but it could have been closed on a more regular basis'.

It is my finding that this is a fair representation of the facts before the barriers installation and Planning Committee members would therefore have been aware that the proposed plans were not the same as a barrier being permanently down, but the effect was similar.

### **Complaint 5 Conclusion**

On the balance of probability test, I can find no grounds to support the view that members of Planning Committee reading the planning officer's report would not be clear of the gates status before the current barrier was erected. I therefore cannot uphold your complaint that the Committee report 'mislead to the Committee members' as you suggest.

**Complaint 6:** The case officer's report should have referred to previous efforts by [REDACTED] to mediate between the [REDACTED] and [REDACTED]

In respect of this complaint, I have read the various representations made and can confirm as [REDACTED] has indicated to you that [REDACTED] did not make a written representation and therefore it would not be normal to include his actions in the Committee report.

I also discussed this with [REDACTED] and [REDACTED] who reviewed the planning officer's final report and the content of the Pre-Committee Amendment sheet provided to Planning Committee members.

I am satisfied that the case officer was aware that [REDACTED] had an involvement in this application and was trying to undertake some mediation with the applicants and objectors. In terms of whether this information should have been included in the Committee Report I find that it falls into a similar category as the police report; namely that its mere existence does not add any real value in planning application terms and again it has not been submitted for representation as a relevant factor by [REDACTED] who is aware of the planning process.

I can appreciate from your own comments, that it was viewed that the work undertaken by [REDACTED] indicated that the applicants were not minded to enter into any mediation. Discussions with [REDACTED] indicate that

these are areas that planning officers would not get involved in; as there is the potential that any officers comments made in the Committee Report may be interpreted as biased to one party over another. Fundamentally however, this type of issue would not be a relevant or deciding factor upon which a decision to approve or reject an application might be based.

## **Complaint 6 Conclusion**

For the above reasons I am not able to uphold this particular complaint that the case officer's report should have referred to previous efforts by [REDACTED] to mediate between the [REDACTED] residents and [REDACTED] members. I do not find therefore that this omission was a breach of the City Council planning process.

## **Overall Findings:**

**In respect of your view that the City Council in processing planning application [REDACTED] made process errors which impacted on the Planning Committee being able to reach a sound decision I make the following finding:**

I have carefully reviewed each of the complaints you have raised and broken them down where necessary in order to properly examine the specific aspects raised. I have focused on whether there are sufficient grounds which might indicate that the City Council's handling of planning application [REDACTED] was flawed in terms of its process and presentation to Planning committee.

In all six complaints raised I have not been able to find evidence that would uphold the specific complaint and consequently looking at the overall complaint I can find no evidence to support your view of the City Council's actions.

I have found in complaint 1, an identified gap in the written advice and guidance that is available to case officers to ensure that there is transparency and consistency in the way that they are expected to assess and manage material submitted in a digital format. This I consider to be a learning point which I recommend the City Council should address.

In discussions with [REDACTED] and [REDACTED] during the examination of the case file, Planning Committee report and Pre-Committee Amendment sheet, it was evident that this case did have a high number of areas of representation calling for careful assessments to be made.

This case has highlighted that where multiple assessments are having to be made, even if they are justified on their own merits, there is a need to ensure their accumulative impact does not undermine public confidence in the transparency of any final recommendation which is made by the case officer.

Whilst I am satisfied in this case that this process has taken place, I have raised with [REDACTED] and [REDACTED] the importance of maintaining a robust reviewing process for case officers reports prior to submission to Planning Committee. This is

particularly required where there are significant and / or varied representations for consideration by the case officer. [REDACTED] has assured me the review process is something that is kept under regular review.

### **Learning Points / Recommendations:**

FAO:

[REDACTED]

This case highlights a learning point which may have direct relevance to maintaining the public's confidence in the City Councils administration process and delivery of its planning services.

1. The City Council should review its approach and written guidance to planning officers in respect of handling planning application representations supported by digital photographs / video.
2. The City Council should ensure that any guidance agreed is clearly communicated to the public to ensure they understand the acceptability of certain formats of information.
3. The City Council should ensure that members of the public are given clear information about how they might submit / resubmit digital material or have it assessed in an alternative way.

### **Recommendations**

1. That the Director of Planning and Economic Development notes this independent reviews finding and the learning point identified for further consideration and communication within planning services staff to support the on-going development of best practice.

### **Further Action**

Finally [REDACTED], whilst I can appreciate you may be disappointed by my overall findings I would like to advise you that if you are dissatisfied with the outcome of my investigation, you may refer your complaint to the Local Government Ombudsman whose contact details are: Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH.

Yours sincerely

[REDACTED]

[REDACTED] [REDACTED]

Independent Complaints Investigator