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Mr Michael Meredith

Reference Number: APP/J4423/W/20/3258555

Sent via email

Date: 27/07/2021

APPEAL BY AVANT HOMES – LAND AT MOORTHORPE WAY, SHEFFIELD

Dear Mr Meredith,

Thank you for your letter dated 5th March and email on the 8th July to Rt Hon Robert Jenrick MP regarding the Inspector's decision for appeal reference 3258555. This has been passed to me for a reply as the administration of planning appeals is the responsibility of the Planning Inspectorate, acting on behalf of the Secretary of State. It is usual practice for complaints and queries relating to planning appeals to be forwarded to the Inspectorate's Customer Team for investigation and response.

Firstly, I should explain the role of the Planning Inspectorate within the planning system is to act impartially as a planning appeals body for the Secretary of State. As such, outside of the appeals process, the Planning Inspectorate holds no jurisdiction over local planning matters. As such, whilst I note your comments regarding the Council meeting on the 2nd June 2020, as I am sure you understand, we are unable to comment on or investigate the conduct of the Council during the application process. Again, in terms of if the Planning Inspectorate was misled by the Council's decision notice, it is unclear how this would be the case. In any case, as above the Planning Inspectorate cannot investigate this matter.

In regard to an unelected civil servant not following the Council's decision, as stated in my original response, the majority of planning applications are decided by the local planning authority. Under the current planning system, an applicant has a legal right of appeal if their planning application is refused by the local authority. Planning legislation requires that decisions are made in accordance with local planning policies unless, as stated in the Planning and Compulsory Purchase Act, "material considerations indicate otherwise".

I further note that the Inspector declined to review the meeting you mention. As set out in the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, the Inspector shall determine the procedure at an Inquiry. As such, whilst I understand you disagree with the Inspector's handling of this matter, it was for the Inspector to determine whether in their view it was necessary to consider this. I also note your comments regarding your suggestion of an alternative site. Again, it is for the Inspector to consider whether this would have been considered, and I should explain that the Inspector can only consider the proposal before them in the appeal and cannot consider or suggest development at an alternative site. This could be construed as direct planning advice which would contradict the impartial position the Planning Inspectorate holds within the planning system.

In terms of the flooding issue that you raise, to my reading of the decision, this was not one of the main issues before the Inspector in the appeal. However, I note that the Inspector addresses the matter in paragraph 66 of the decision, stating that "*a Flood Risk Assessment and Drainage Strategy has been submitted by the appellant...*", and that this confirmed the site to be a low risk flood risk, and that the proposed drainage system would adequately control

drainage, "including effects downstream". The Inspector's findings on the flood risk was a judgement the Inspector was entitled to reach based on the evidence before them.

Furthermore, I should explain that an Inspector will consider both the positive and negative aspects before balancing the evidence in coming to a decision to allow or dismiss an appeal. The outcome of this appeal does not mean that evidence has been ignored or misinterpreted. Instead, the Inspector will have used his judgement to give different weight to the issues raised, taking account of the relevant policy considerations and the particular circumstances of the case, with the weight of planning argument being the determining factor.

In terms of which Secretary of State is appealed to in a planning appeal, this is the Secretary of State for Housing, Communities and Local Government. I have provided answers to your Freedom of Information Request below.

1. The Planning Inspectorate is an executive agency of the Ministry of Housing, Communities and Local Government. Inspectors are appointed to decide planning appeals on behalf of the Secretary of State.
2. There is no correspondence from the Secretary of State to the Planning Inspectorate in respect of the appeal.
3. Please see attached to my email correspondence from the Planning Casework Unit at the Ministry of Housing, Communities and Local Government explaining that the appeal would not be "recovered". Some email addresses and names have been redacted as this is considered to be third party personal data and its' public disclosure would breach the first data protection principle of fair, lawful and transparent processing. The exceptions to disclosure of third-party personal data under the Freedom of Information Act Section 40 (2) and the Environmental Information Regulations Section 13 are therefore considered to apply.

If you are unhappy with the outcome of your request for information, or the way we handled your request, then you can ask for an internal review. Details of our review procedures and contact details for the Information Commissioner's Office are set out in the attached leaflet.

Whilst I appreciate you will remain unhappy with the Inspector's decision in this case, through the decision letter the Inspector appears to have considered the representations made and the relevant policy framework. As stated in my original response, the decision letter constitutes a legal document and it is not possible for us to re-open matters the decision maker was appointed to determine or add to the decision letter. The only way in this can be done is through a successful challenge, on a point of law, in the High Court.

Kind regards,

Matt Dunkley-Roberts

Customer Team Officer