Consultant Planning Services (CPS)
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SO19 7NB

RE: 6 Wellbrooke Gardens, Eastleigh SO53 1TN 17 October 2017

Mariola Bartkowiak
Room 3 / P
Temple Quay House
2 The Square
BRISTOL
BS1 6PN

By e-mail only

Dear Ms Bartkowiak,

Subject: **Town & Country Planning Act 1990 (as amended): Planning Appeal by Mr & Mrs Humphrey 6 Wellbrooke Gardens Chandler's Ford EASTLEIGH SO53 1TN Appeal Reference APP/W1715/W/17/3178367**

I write further to the above and your letter dated 3rd inst, together with accompanying documents supplied by the Local Planning Authority, Eastleigh Borough Council. There were no further statutory or formal consultee representations supplied to the Appellant and no third party comments.

The following comments are submitted pursuant to Part 2, Reg 14 (6) of the Town and Country Planning (Appeals)(Written Representations Procedure)(England) Regulations 2009 (SI. 2009/452), as amended by Reg 2, paragraph 8 (d) of the Town and Country Planning (Appeals)(Written Representations Procedure and Advertisements)(England)(Amendment) Regulations 2013 (SI.2013/2114).

The Rebuttal comments of the Appellants are provided in full by way of this letter and no new or additional information or evidence is presented or relied upon by the Appellants in pursuance of their Appeal. The Appellants commend their original Statement of Evidence and associated appendices to the Inspector.

The Inspector is asked to note that for this and the previous planning application Officers of the Council have set out their support for the proposals in accordance with the adopted Development Plan, identifying the main material planning considerations citing the need to have regard to the policies of the Development Plan in accordance with s38 (6) of the Planning and Compulsory Purchase Act 2004. During the discussion and debate at the Public Meeting on 28th June 2017 Members repeatedly made reference to the retrospective nature of this and the previous application by the Applicant, these comments fuelled concerns about the 'intentions' of the Applicant and caused Members to question the validity of the Application before them, the nature of the use associated with the garage and the prospect of subsequent applications for an additional dwelling unit and/or a second storey development on top of the garage as proposed. The discussion and debate for the application made scant reference of the merits of the development proposal and instead from the outset sought to galvanise concern and potential objection(s) to the scheme.

It is submitted that the Official minute, whilst covering the much of the discussion and debate, has omitted some of the hostile and inflammatory commentary aired by some of the Members present at the Meeting. This record omits entirely Members confusion over the proposal before the Committee and omits a procedural error in regard of the motion before the Members. The Inspector is asked to recognise that at the time of the Public Meeting the Nation was still reeling from the then very recent events in London and the tragedy which had taken place at Grenfell Tower. The Meeting was taking place at a time of heightened awareness of the role of the built environment and in the spotlight of media attention upon Officials and public bodies which bore a responsibility toward residents, it was perhaps understandable that Members in a public forum, reflected upon this.

Significant within the Official Minute are the repeated references to Building Regulations and the potential fire hazard presented by the proposed garage. Members are acutely aware of the role of Building Regulations and the fact that the Council regularly permits integral garages as part of the many development proposals before it, the concerns expressed by Members and their apparent lack of awareness of the role of the Planning Committee did a disservice to the training given to Members and provided a false impression to the members of the Public present at the meeting. No where in the Official Minute is Grenfell mentioned and yet this presented itself as a theme in the debate offered and gave an impression that it in some way affected consideration given to this application. The Appellant notes that none of this is reflected in the decision of the Council. The tone and tenor of the Meeting was at all times biased against the development proposal and some of the comments made by Officers served to reflect the attitude of the Members.

When seeking to address the concern expressed by Councillor Atkinson regarding the application posing a risk of a second storey which would in her mind give rise to huge concerns, the Officer commented that 'Unfortunately we cannot prejudge and this would need to be assessed like any application, but Officers were aware of the history and had taken this on-board.'

When seeking to address the concern expressed by Councillor Grajewski regarding her opinion that Officers should check the use as stated by the Applicant as in her opinion the application may be incorrect, the Officer commented that the Applicant was 'innocent until proven guilty' and that the 'benefit of the doubt was given to the applicant'. None of which provided the clarity and reassurance which was readily available at the Meeting.

One of the Members called upon Officers to place the plan of the garage on screen once more and from this proceeded to query the provision of double doors which in their opinion would be inadequate to accommodate a vehicle and this lead to suspicions that the use was not as claimed. Officers simply advised that the Member had got the plan the wrong way round. Although it is acknowledged that as a stand-alone-fact this amounts to very little, it is placed in Rebuttal to give evidence to the fact that the Official Minute does not convey the oppositional stance of Members to the development proposal from the outset.

Both the proposer of the original motion and seconder then went through an elaborate reassessment of their respective positions and commented that their position in relation to the development was finely balanced / borderline, but that it was upon reflection and following the forgoing debate that they had each individually and separately changed their minds; Cllrs Mr & Mrs Broadhurst. The Inspector is asked to note that this elaboration serves to demonstrate Member training in effect.

The Chair of the Meeting then asked the Officers if it was OK to vote and called upon those present for 'all those in favour of refusal' after a moment of embarrassed silence it was noted that the motion before the Meeting was for approval and that this needed to be considered first. A hasty request for all those in favour of the recommendation received no show of hands with one Member not raising his hand, and requesting for a request for any abstentions, to which he raised his hand. The Chair then stated that the application was refused. A further moment of silence ensued when the Lead Officer explained that in order to determine the application a proposer was required and that this required a seconder. At this point the original proposer, Councillor Alan Broadhurst offered a motion to refuse the application based on it being an overdevelopment, out of character, out of keeping with the appearance of the locality, mass being such a mass that it was not in keeping and materials.

It was at this point that the Lead Officer explained that an Appeal had been lodged and that what Members were now doing was showing what they would have said had they looked to determine the application. He commented that he would take a lead from the Vice Chair but considered that they need to reduce down the reasons for refusal and that it was his opinion that the Council would be hard pressed to demonstrate overdevelopment, whilst mentioning some of the more general points he suggested that the final decision be delegated back to the Chair, Vice Chair and Tory Party [*sic*] to agree the wording and not formally issue a decision but instead advise the Planning Inspector.

The Chair then questioned whether there had in fact been an Appeal made and once this had been confirmed to him, he then asked for a seconder to the motion to delegate back to agree the wording. There was a clamour of Members to second this motion and the original seconder was supported by other Members.

Councillor Pragnell, who had commenced the discussion of the application and abstained from the initial vote then requested that his concerns be brought to the attention of the Inspector. Councillor Grajewski asked that "visually intrusive" be added to any wording and that she would want to get involved in an Appeal process as she believed this needed to be heard at a meeting and not just written representations. The Lead Officer confirmed the requests made by Members and briefly explained the process following the Appeal against Non-Determination and considered that Members were doing the Inspectorate a disservice as the minutes of the debate and how members felt differently to Officers would be conveyed to the Inspector.

Councillor Hughes then said that he knew of an example in North Millars Dale of a right of way that runs in open land with nothing allowed to be built on it.

The Chair then called for those in favour of the new motion and all except one Member raised their hand, when asked for those who wished to abstain, the remaining Member Cllr Pragnell recorded his vote. At this point the Chair noted that the application was refused and with this the debate on the application ended.

However, Councillor Pragnell used the pause at the end of the item and change over to the next item to make clear his gratitude to his fellow Committee Members and gave an assurance to those present that he was grateful to their service for the community at large and that he would remember this.

The consideration given to the application, the demeanour of those present and the unusual procedural mistakes made in the determination of the scheme left the impression that something other than the Officer report had had an untoward influence upon the decision making of the Council.

All of the above is set out in Rebuttal to simply make the Inspector aware that the Official Minute of the Meeting does not adequately reflect what took place, omits some parts of the debate and does not accurately reflect the sequence of events in the Meeting. The Appellants Agent has on previous occasions taken verbatim notes of Public Meetings and then sought to supply these to Senior Officers of a number of Councils to seek confirmation or clarification of any points raised in a Public Meeting. It is my experience that Councils will not comment upon such records and provide instead that the only record it is willing to acknowledge is that of the Official Minute, this reflects the separation of the professional Officer opinion and the action(s) of the Council as a legal entity. It nonetheless represents an unsatisfactory state of affairs, weighted as it is against the applicant/ appellant.

The foregoing rebuttal commentary is supplied in an attempt simply to rebalance the narrative and it is not expected to 'sway' the decision of the Inspector. The Appellant is satisfied that the ability to determine the application has been taken out of the hands of the Council and is content that the determination by an Inspector will be undertaken by a competent and impartial decision taker.

The Appellant has not been provided with any further comments and does not seek to raise any further comment or bring any other matter to the attention of the Inspector.

In order to provide assistance to the Inspector the Appellant would like to offer some suggested Planning Conditions in the event that the determination is in favour of the proposal. It is acknowledged that the scheme is retrospective and therefore a commencement condition may be regarded as being unnecessary, however it should be noted that the development has yet to be finished in its entirety, with the guttering and down pipes yet to be installed to available soakaways.

The Appellants have at all times invested in their property as their family home, and at no time has development undertaken at the property been undertaken in order to operate a business from the property. Whilst acknowledging that any material change of use would necessarily be a matter of proper subsequent investigation, the Appellant would wish to advise that a suitable condition providing that the development as permitted should only be used in conjunction with the use and enjoyment of No.6 as a single dwellinghouse would be acceptable to them. It is submitted that such a Condition could present an opportunity for the Council to quickly address any unauthorised use of the garage through the issue of a Breach of Condition Notice, from which there is no Appeal.

The Appellants submit that the development is acceptable and should be supported in accordance with the Development Plan, and that there are no other Conditions necessary in order to make the current development acceptable in planning terms.

The Inspector is respectfully invited to conduct a site inspection, review the submissions relevant to this scheme and support the Appellants in allowing this Appeal.

Yours Sincerely,

Carl Patrick, Consultant Planning Services