

Planning reference 22/01184/MAF

This is a complaint regarding the process for deciding the recent planning application (under the above reference) to build 138 new houses in Silsden.

A. Background

I am a member of Silsden Town Council and spoke at the Regulatory and Appeals Committee meeting on 26 October when a planning application made by Persimmon Homes under ref 22/01184/MAF (the "Silsden Fields Planning Application") was considered. I am also Chair of Silsden Campaign for the Countryside and it is public knowledge that Silsden Campaign for the Countryside opposed the planning application made by Persimmon Homes under the Silsden Fields Planning Application. It is also public knowledge that the Campaign was disappointed that the Silsden Fields Planning Application was resolved to be granted (subject to a section 106 Agreement) at the meeting of the Regulatory and Appeals Committee.

This formal complaint is not, though, a plea to reverse that decision. I understand how the decision of the Regulatory and Appeals Committee is now not reversible by the Planning Authority.

I do not make this complaint as a Silsden Town Councillor nor in making this complaint do I speak for the Town Council.

B. The process to decide the Silsden Fields Planning Application – general comments

My opposition to the Silsden Fields Planning Application meant that I (and others) closely monitored the conduct of the Silsden Fields Application and so this formal complaint sets out observations on the process for deciding that application*

Neither I nor anyone else I have talked to when compiling this complaint had special access to information regarding the Silsden Fields Planning Application. Everything I saw was in the public domain, accessible by all members of the public.**

C General Observation

I strongly feel that the conduct of the Silsden Fields Planning Application was deficient due to serious weaknesses in Bradford Council's process and systems in dealing with the Silsden Fields Planning Application.

Given the impact of the decision on the community of Silsden I had expected the planning application process to be dealt with in a thorough manner; but whilst elements were dealt with properly and professionally the process should have been meticulous, well presented, fully discussed and transparent. In my view it was none of these.

D. The process to decide the Silsden Fields Planning Application – specific areas of complaint

D1 The meeting on 26 October 2023 should have been deferred, for four reasons:

1. In the two weeks before the relevant meeting of the Regulatory and Appeals Committee meeting took place the application was changed fundamentally by the downgrading of a vehicular access to an access for pedestrians and cycles only. The Case Officer's report

was not updated to reflect this. Given that Highways were, on the face of the documents in the public domain, against any such access not being a full vehicular access, then the Committee meeting should have been deferred. This would have enabled Highways' comments on the revised access to be put in the public domain for scrutiny, and for the Case Officer to have updated the report so that the full picture on this important change.

2. Deferment would have enabled the Committee to visit the site (see below).

3. Deferment would have enabled an enquiry to be made before the decision was made on the extent and effect of (what seemed to us from what was said on 26 October) the inappropriate lobbying of Committee members made by the applicant (see below).

4. Deferment would have given the Case Officer time to correct the problems (in addition to the one mentioned at 1 above) with the report that were pointed out.

Despite requests for a deferment, on ground 1 above, made by a District Councillor and Silsden Town Council before the meeting, and despite a verbal request for a deferment on ground 2 above being made at the meeting of the Committee no deferment was made. This leaves me (and, anecdotally, members of the public) with little confidence that the Committee had all relevant information in front of them at the time they were required to vote on the application, nor could I be confident that the Committee had not been improperly lobbied. The uneasy impression that this creates could easily have been avoided with a deferment of the agenda item to, say, November 2023.

D2 The Committee should not be making a decision on an application as significant as this one without visiting the site.

The impact of the proposed development the subject of the Silsden Fields Planning Application was difficult to visualise with the plans and any supporting material (including photographs) provided by officers.

The Silsden Fields Planning Application covers a complex green field site, the issues relating to which could (in my view) be only properly appreciated by the Members of the Committee attending the site. Whilst I feel this should have happened in relation to this site as a matter of course, the omission of a site visit could have been rectified by the simple measure of deferring the agenda item for a month for the members to visit the site.

D2.1 Comment

Accepting the decision of the Regulatory and Appeals Committee, made in a perfunctory 2 hour meeting at City Hall, is made more difficult for the community affected when they cannot see:

1. that the Members of the Committee have been presented with all relevant information; nor
2. that the Committee has been advised that an application as significant as the Silsden Fields Application deserved a site visit by the Committee.

D3 Lack of transparency

- It was apparent from comments made at the meeting on 26 October that Persimmon had sent emails to the Members of the Committee. To those members of the public in attendance this sounded like an attempt by the Applicant to influence the Committee's

decision by inappropriate lobbying (or worse). One Member of the Committee was very clear that they had not read the email they had been sent by the applicant. The public present heard nothing similar from the other Members of the Committee and were, I believe, left with the distinct impression that the applicant had taken improper steps to influence the Committee's decision leaving the public in doubt as to the integrity of the resolution to grant the application made by the Committee.

- There was a suggestion made to the meeting that Highways had sent Councillors a briefing paper about the change to the scheme which removed the vehicular access and leaving it as pedestrian and cycle only. This paper was never placed in the public domain and so Highways' u-turn on their objection to there being no second vehicular access into the site was not open to scrutiny. This leaves observers of the process with the impression that the applicant is being favoured (which then leads to the unsettling question 'why?', a question which could have been avoided by the publication of Highways' updated advice, and with proper time given for it to be reviewed by the public).

- The Case Officer's report clearly applied to an application which was different to the one being considered by the Committee at the meeting (in that the Case Officer's report applied to a scheme with a second vehicular access). If the report was updated in a private briefing by the Case Officer to the Members of the Committee then this should be brought into the public domain, with time given for scrutiny. If it was not updated then the Committee have made a decision on the basis of a Case Officer's report which applied to a different proposal. This is unsatisfactory, to say the least.

- I am aware that Silsden Primary School sent an email to the Case Officer on Tuesday 24 October, responding to a revised plan lodged by the applicant only on Friday 20 October. I am not aware that the contents of that email were drawn to the attention of the Committee by the Case Officer and, if it was not, I consider that to be a failure of the process (if it was, in fact, drawn to the attention of the Members of the Committee but that was not made public then I would consider that to be a failure of the process).

- The conclusion of the meeting of the Regulatory and Appeals Committee on 26 October was most unsatisfactory in that the terms imposed by the Committee as conditions to the resolution to grant were not at all clear. The meeting should not have ended without the exact wording of the resolution, in particular the specific conditions (including the important additional terms of the Section 106 Agreement) being agreed by the Committee. A member of the public in attendance commented that the conclusion of the meeting was 'a shambles' and that is how it felt to me.

- I have written this formal complaint without being able to access the standing orders of Bradford Council relating to this Committee***. These are critical as they govern the conduct of meetings of the Regulatory and Appeals Committee and I would wish to scrutinize them.

- o to ensure that the meeting on 26 October was conducted properly; and

- o to propose changes necessary to make the process more accessible and accountable.

D4 The Case Officer's Report

D4.1 Lack of quality

Whilst I appreciate that the Case Officer is a qualified professional with professional obligations, there were problems with the Case Officer's report which I (and other people) spotted– and this is concerning because the Members of the Committee are relying on this report and are subject to the Case Officer's recommendation, such that they are (I would respectfully submit) entitled to expect the report on which they mainly base their decision to be of the best quality therefore.

Fundamentally, if the Case Officer's report is sub-optimal then this completely undermines

the basis of the Committee's decision.

These are the specific problems with the Case Officer's Report that were spotted.

- a) The report was not easy to read – with no logical progress (for example, there are references to policies littered across the document with no commentary on how they interrelate)
- b) I and others (including Mr Pickles as he made clear when he was allowed to speak briefly as a member of the public) had spotted that, despite the clear requirement of West Yorkshire Archaeology Service, as consultees, the Case Officer had missed the archaeology condition that was required.
- c) Highways' u-turn on their requirement for a one way vehicular access into the site off Hawber Cote Lane was not explained in the Case Officer's report (which was written on the basis of the one way vehicular access off Hawber Cote Lane which was not actually in the scheme being decided on) and was never otherwise explained to the public, and to this day it is still a mystery to us why Highways went from strongly requiring that vehicular access to agreeing that it should be dropped.
- d) There were 820 objections to this application from members of the public. Unlike usual practice, where objections are fully summarised for Members, in the Case Officer's report for the Silsden Fields Site Application the case officer summarised the public's objections in only 45 words. Furthermore there is no ability for members of the public to see the objections made in order to check that they have been properly taken into account in the Case Officer's report
- e) So far as the public can see there is no procedure for the quality assurance (peer review, proper checking etc) of the Case Officer's Report before it is presented to Members of the Committee.

D4.2 Effect of a flawed Case Officer's Report

Members of the Committee will always be wary of the potential costs consequences of the Council from an applicant successfully appealing a refusal and so understandably will give great weight to the Case Officer's recommendation to grant an application. I acknowledge and respect that Case Officers are fully qualified professionals and I do understand that they are under time pressures (due both to workload and also due to statutory timescales imposed on the Council as planning authority) but this cannot be used as an excuse when it comes to matters as permanent and significant as new housing developments. Furthermore I cannot help but feel that Case Officers are under sub-conscious pressure to recommend that a decision to grant should be made as then there is no possibility of risks to the Council arising from an appeal (objectors have no right to appeal a grant of course). How the Council ensures that the Case Officer's objectivity is maintained in light of such pressure is not apparent.

D4.3 No ability for the public to point out errors in the report before it is presented to the Committee.

The lack of access to point out obvious problems with the Case Officer's report is an area of great concern to us. When the Case Officer does not reply to emails and does not mention them to the Committee in the meeting held in public, this leaves the restricted time

for public speeches at the Committee meeting to raise these matters – and there is no way of knowing that they have been heard by the Committee and there is no right to re-raise the point where it becomes clear the Members of the Committee are continuing to miss the point.

With very strict time limits put on any member of the public wishing to address the meeting it is inequitable to put them in a position where they have to use up that time in pointing out flaws in the Case Officer's report which should not have been there in the first place.

Allowing time for the Case Officer's report to be corrected is another reason why the Committee meeting should have been deferred.

D4.4 It is a fundamental flaw in the process that the only way for the Committee to triangulate what they are being told by the Case Officer is through very brief speeches allowed to members of the public.

In my view the Committee should be given time to reflect on public representations, to ask questions of the Case Officer for as long as takes, and to visit the site.

E The conduct of the meeting held on 26 October 2023

The fundamental problem with the meeting on 26 October was that it was rushed and confused leading to a conclusion which was, to me (and other members of the public, amateurishly ambiguous (see above).

Also:

E1 In relation to facility afforded to make public speeches:

- a) The time allowed for the public speeches smacks of tokenism;
- b) The time allowed was not even enough to properly critique the Case Officer's report ;
- c) There is no way for the public to know if the Members of the Committee are taking any note of the comments made and no way for the public to come back where they can see there is a danger that a proper concern is in danger of still being overlooked (eg the sunken Holloway, the missing archaeology condition).

E2 The applicant was given impromptu opportunities to make statements and my subjective view is that they were given more time than the public under the public speech policy set out on the Bradford Council's website.***

Even now I do not know if what they said was written down anywhere and it is my view that this was a major part of what led to the very unsatisfactory ending to the meeting.

E3 The Case Officer, the Head of Highways, members of the public and the applicant all spoke at the meeting but it was very difficult to see if any of what they said was being taken in by the Committee Members. Two observations stick with me:

- a) One member seemed to be looking at their phone for much of the meeting
- b) One member was very confused about the location of the foot bridge which formed such a big part of the Case Officer's recommendation. However it was reassuring that the Case

Officer was able to correct the Member in the meeting so hopefully that initial misunderstanding did not affect the Committee's decision. Ideally of course, the Case Officer's report would have had a map in it showing the location of this highly important piece of infrastructure.

E4 The meeting was not, as far as I am aware, recorded. In my view meetings of the Regulatory and Appeals Committee should be recorded – not only for reasons of democratic openness and transparency but also to ensure that the chaotic and unsatisfactory end to the meeting does not happen again (because the clerk would be able to review what was said by Councillors when voting such that the right conditions are applied to the decision made).

F The minutes of the meeting of the Regulatory and Appeals Committee held on 26 October 2023

I have now seen the minutes of the meeting and I am concerned that, having attended the meeting, the minutes are not a true record of the meeting. Specific (non- exhaustive) comments on the minutes include:

- The conclusion of the meeting was confused and I am intrigued how, in the midst of that confusion, the minutes show a conclusion of the meeting in the term as they attempt to record;
- Whilst the outcome of the meeting, and the terms of the resolution, were not clear due to the confusion at the end of the meeting, I am clear that when it came to the s106 Agreement provisions concerning the sunken lane the meeting was talking about a) the preservation of the sunken lane intact (ie without the removal of trees and without it being developed) and b) being made available to the school for its curriculum;
- Whilst the amended access arrangements (removal of the one way vehicular access into the development) is mentioned at page 14 (into page 15 of the minutes (and later as well)), at the start of section 22 of the minutes there is nothing to indicate which scheme the Committee was considering and which scheme the officer's report was addressing. The consequence of this is that the minutes do not achieve the fundamental objective of being clear on the scheme which was considered (and approved);
- Paragraph 8 on page 18 of the minutes refers to non-existent 'Daisy Bank' but more importantly they do not record the school's site manager's comments accurately. The site manager was clear at the meeting in that school can only manage traffic within the school perimeter (the school has no jurisdiction or ability to manage traffic on the public highway);
- Paragraph 9 on page 18 of the minutes should record that the one-way system referred to is wholly within the school perimeter.

G Conclusion

Having reflected carefully since the Committee meeting in question and having, I believe, been able to separate disappointment over the Committee's decision from the concerns regarding the conduct of the process, I have concluded that the poor quality of Bradford Council's process means it was so deficient that it undermined the integrity of the decision made by the Regulatory and Appeals Committee on 26 October.

*My comments on and criticism of the planning application process as set out in this complaint relate of course to a process conducted by Bradford MDC as planning authority,

including the meeting of the Committee (held in public) on 26 October 2023, at which I was present. I do not know if other local planning authorities across the country deal with their planning application process differently.

** Janet Russell, Caroline Whitaker and myself, as councillors, were each given the right to speak to the meeting of the Regulatory and Appeals Committee, being allowed 5 minutes each. The Ward Councillors were, as is always the case, and which is right and proper, prohibited from speaking to any member of the Committee about the Regulatory and Appeals Committee, a prohibition which they were careful to observe.

*** I have located on the Council's website the page called "Public speaking at The District Planning Panel and Regulatory & Appeals Committee" but the rules (presumably democratically arrived at) to justify the policy set out on this page are not (so far as I can see) in the public domain.

What would you like to see as an outcome to your complaint?:

1 A full response on all the points made in my complaint.

2 A full investigation of the conduct of the process for deciding the recent planning application 22/01184/MAF covering (without limitation):

- the quality of the Case Officer's report;
- what was actually said to members of the Committee regarding the last minute change to the application - including an explanation by Highways of the changes to their advice (and the publication of that such that there is transparency and accountability);
- the reasons why the meeting of the Regulatory and Appeals Committee was not deferred;
- the reasons why the Regulatory and Appeals Committee did not visit the application site;
- the extent and effect (if any) of the lobbying of Committee members attempted by the applicant;
- why the email sent by Silsden Primary School to the Case Officer on 24 October was not brought to the attention of the Committee members (or, if it was, why it was not made public);
- the way the detailed decision of the committee was agreed and recorded and why that was not clear to the members of the public in attendance.

3 The correcting of the minutes so that they are a true and accurate record of the meeting held on 26 October 2023.

4 A review of the procedures for, and conduct of, meetings of the Regulatory and Appeals Committee (in light of the criticisms in my complaint) with that review setting out recommendations for making the process properly transparent and thorough and so that those people and communities affected by the decision can have confidence in the process - and all findings and recommendations being made public.