

Request for an Independent Investigation Into the handling of planning application 20180471

From: "Peter Milliken" <chair@eastonparishcouncil.co.uk>
To: "Cllr Shaun Vincent" <Cllr.Shaun.Vincent@Broadland.gov.uk>
Cc: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>, "Phil Courtier" <phil.courtier@broadland.gov.uk>, "Margaret Dewsbury" <mdewsbury@s-norfolk.gov.uk>
Bcc:

Date: Jun 2, 2018 7:05:48 PM

Dear Cllr Vincent,

It has become clear that Mr Kirbys investigation was somewhat lacking in its approach to uncovering all the facts, but the first point we would like to raise was that Easton Parish Council called for an independent investigation of what had taken place and not an internal investigation. Please see attached original letter requesting an independent investigation dated 23 April 2018.

With regard to your comments '**additional legal advice is being sought, which will be made available to you should you wish**' Easton Parish Council will wish to receive this advice without the attempted obstacles being placed in our way for the initial part of the advice which was received, we believe on the 22 April 2018. Cllr Vincent you may wish to expedite the release of this formal advice without any further delays.

The resources of Broadland are not the concern of the residents of Easton, what does concern us is that Broadland Council operates in an open and transparent manner. If the planning department at Broadland Council can not handle more than one large enquiry at a time how can it be classed as fit for purpose and how can we feel confidence that the Local Development Order will enjoy the full level of scrutiny it requires should something else crop-up within the planning department.

We found an interesting question raised by Liz Poole of Norfolk County Council Highways where she asked if the LDO could be withdrawn, this again does not show its drafting in a good light, we note no reply to that question was made available via the FOI that was undertaken. Cllr Vincent you may wish to answer that question on Broadland Councils behalf.

It should be noted that Easton Parish Council in the spirit of openness and transparency is placing all information it has on the parish council website as we believe local residents have the right to know what is going on without the obstacles BDC like to deploy. <https://eastonparishcouncil.co.uk/local-development-order>

Please see the attached letter from Mr Kirby, we will break down our resources to the letter paragraph by paragraph.

Par 1. the first point we would like to raise was that the Parish Council called for an independent investigation of what had taken place and not an internal investigation.

Par 2. Mr Kirbys states that no fixed process for the discharge of conditions imposed as part of a Local Development Order. This seems an absurd, when there are specific condition that need to be met before a condition can move forward. It is clear that there has already been a breach of the LDO in that the developer has breached condition 2.28 without first obtaining approval under condition 2.20, further more if he had conducted a full investigation he would have found that the developer had also breached the Hedge Row Regulations 1997.

Par 3. To state that the officers initial desire was to expedite the delivery of infrastructure, a relatively light touch approach to approval was adopted. It is fairer to state that a non existent approach to planning consultation policy was adopted in an effort to by pass due process. Broadland Council clearly misrepresented what it was doing to Cllr Wildon of Marlingford and Colton PC and myself in stating this application was not in fact an application it was merely to meet a condition of the LDO. It is clear from evidence gathered that Broadland Council had been informed by South Norfolk Council that a full planning application was required as far back as October 2017 when they first saw the plans before it formally came to public attention in April 2018. It seems clear there is an attempt to white wash over the truth about the actions of the officer. One has to wonder what benefit was the officer looking to gain by his actions or where there more sinister forces at play.

Par 4. Legal advice had already been obtained 22 April 2017 which was verbally disclosed by Matthew Rooke that LDO applications could only take place in the red line area of the LDO. This combined with the evidence from SNC clearly shows that Mr Kirbys so called investigation was less than detailed in its approach.

Par 5. As regard to this paragraph BDC conducted no consultation with anyone in the first place, so nothing has changed. We look forward to this full planning application coming forward with a full consultation as the Secretary of State can no longer be misled as to the intention of phase two and as such we will be asking that a full Environmental Impact Assessment should take place as part of this planning application process.

Par 6. Easton Parish Council will look to take up the offer of receiving the contents of the legal option but a little more detail is needed so it is understood what the question was to gain the option.

Par 7. Accepting that a wider consultation was needed is great to say but what has been put in place to stop this type of behaviour happening in the future at BDC in which at the time no consultation took place. It was evident for the outset of the LDO application this was a contentus matter and as such Mr Kirbys comments that when it became evident that there was local concern... this is laughable and again shows that he did not investigate this matter fully otherwise he would not make such a statement.

Par 8. People and the environment have be disadvantaged by the actions of BDC, extra time and resources have that to be spent dealing with the lack of transparency and openness that seems to be cultural problem within BDC compared to SNC. A wildlife habitat has been destroyed in breach of the Hedgerow Regulation 1997.

Par 9. An inadequate investigation leading to an inadequate conclusion.

We had tried to deal with these matters on a more local level, but I can see no alternative but to refer this matter to the Local Government Ombudsman.

However this does not stop your officers answering the questions that have been put to them on all the matters raised to date.

Yours sincerely

Cllr Peter Milliken BABA(Hons)
Chair Easton Parish Council

Sent: Saturday, June 02, 2018 at 1:37 PM
From: "Cllr Shaun Vincent" <Cllr.Shaun.Vincent@Broadland.gov.uk>
To: "Peter Milliken" <chair@eastonparishcouncil.co.uk>
Cc: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>, "Phil Courtier" <phil.courtier@broadland.gov.uk>
Subject: RE: Review Planning Application 20180471 and LDO File - FEZ

Dear Mr Milliken,

Further to my email last week I though I would comeback to you as you have had further exchanges with Offices at Broadland.

Your should have received a letter, via email, from the Chief Executive dated 22 May 2018 outlining the outcome of his investigation of your complaint, how the approached to this planning application is being progressed and that additional legal advice is being sought, which will be made available to you should you wish.

As you are aware this planning application will be determined by the Planning Committee which will give yourself and other interested parties an opportunity to address the Planning Committee, in the public speaking section, prior to the Committee making a final decision.

I also understand that you are raising questions that Matthew Rooke, our Area

Planning Manager, is providing you with answers as he works through and responses to your detailed questions.

The last month has been particularly busy for the Planning Department, including a very high profile appeal case regarding Thorpe Woods, which has impacted on resources. I apologise if you feel this has caused any delays in the responses you have received. Please be assured that planning application 20180471 is receiving appropriate scrutiny and you will be notified prior to the application being determined by the Planning Committee.

Best regards,
Shaun

Councillor Shaun Vincent
Member for Plumstead Ward on Broadland District Council
(Great Plumstead, Little Plumstead & Thorpe End Garden Village)

Telephone: 07763 690815

From: Cllr Shaun Vincent <Cllr.Shaun.Vincent@Broadland.gov.uk>
Date: Wednesday, 23 May 2018, 11:54 am
To: Peter Milliken <chair@eastonparishcouncil.co.uk>
Cc: Margaret Dewsbury <mdewsbury@s-norfolk.gov.uk>
Subject: RE: Review Planning Application 20180471 and LDO File - FEZ

Dear Mr Milliken,

Thank you for your email and I am sorry to hear that you have had the need to make a complaint.

I has asked the Head of Planning to investigate and brief me on the points you have raised. Once the investigation has been completed I will comeback to you with a full response.

Best regards,
Shaun

Councillor Shaun Vincent
Member for Plumstead Ward on Broadland District Council
(Great Plumstead, Little Plumstead & Thorpe End Garden Village)

Telephone: 07763 690815

From: Peter Milliken <chair@eastonparishcouncil.co.uk>
Date: Monday, 21 May 2018 12:19 pm
To: Cllr Shaun Vincent <Cllr.Shaun.Vincent@Broadland.gov.uk>
Cc: Margaret Dewsbury <mdewsbury@s-norfolk.gov.uk>
Subject: Fw: Re: RE: Review Planning Application 20180471 and LDO File - FEZ

Dear Cllr Vincent,

I understand that you are the portfolio holder for planning, I have a number of concerns with regard to the protection of Data within the planning department as well as its openness and transparency to public scrutiny please see below.

I have also requested that an independent investigation be undertake into the actions of some officers in relation to the handling of the Local Development Order for the Food Hub. This request was lodged on the 23 April 2018 with Helen Cowles in a letter outlining my concerns please see attached. To date I have received no formal reply.

On the 16 May I asked what I believe was a simple question in relation to the removal of part of a hedge again no formal response from the planning department, it is either the department in which you have responsibility is undermanned or are hoping by ignoring difficult questions the question will go away. This is not the case, these are important matters which require answers and as such deserve a prompt response.

Yours sincerely

Sent: Tuesday, May 15, 2018 at 2:20 PM
From: chair@eastonparishcouncil.co.uk
To: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>
Subject: Re: RE: Review Planning Application 20180471 and LDO File - FEZ

Matthew,

As you are aware I visited your offices this morning and spent around an hour viewing the files that I requested, however it is very clear that these file have had documents removed. Please provide a full list of all documents and correspondence that was removed from the file together with the full legal reasoning why these documents were removed in full from the file. This has a large impact on trust, openness and transparency. Merely stating that certain documents may have financial information on them does not in itself allow from them to be removed in their entirety.

Please advise who reviewed the material that was removed and provide the legal policy process that is undertaken at Broadland District Council in relation to the removal of documents from files before the public may see them. What steps were taken to ensure that they had full legal justification in removing a complete document. I also noticed that these file do not have a check in / out sheet attached for the file nor did it have an index of the documents that should be on file.

In regard to openness and transparency and the public legal right to hold officials to account for the decisions they are making on our behalf, how can we be sure due process is being followed in the protection of data that should be associated with these files. Unless due process is followed and safe guards are in place it is difficult to hold officers to account, we are aware that mistakes have been made in the interpretation of legal advice, what other potential mistakes have been potentially covered up in the removal of documents.

With regard to the legal advice shared so far I can see no reason why it is not shared in its entirety, as the reality is that the officers, of Broadland District Council are answerable to the people and in an effort to be open and transparent this advice should be provided in full, you have already stated one of your officers misinterpreted the original legal advice, what else is Broadland District trying to hide by not disclosing the full advice. It can not be in the public interest not to be open and transparent in these matters.

I have made a number of notes on the information on the planning file and after a further review I will provide you a list of any questions I have in due course.

I look forward to you supplying the above information in the very near future.

Regards

Peter

Sent: Tuesday, May 15, 2018 at 8:45 AM
From: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>
To: "chair@eastonparishcouncil.co.uk" <chair@eastonparishcouncil.co.uk>
Subject: RE: Review Planning Application 20180471 and LDO File - FEZ

Peter

Thank you for your e-mail, I will once again liaise with colleagues and respond in writing in due course.

Regards

Ma hew

Matthew Rooke

Tel: 01603 430571

West Area Planning Manager

matthew.rooke@broadland.gov.uk

Broadland District Council

www.broadland.gov.uk

Planning Application fees increased on Wednesday 17th January 2018. The new fees apply to all applications received on or after this date.

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From: chair@eastonparishcouncil.co.uk [mailto:chair@eastonparishcouncil.co.uk]
Sent: 14 May 2018 15:22
To: Matthew Rooke
Subject: Re: RE: Review Planning Application 20180471 and LDO File - FEZ

Matthew,

Many thanks for sorting a room out for me to view these files.

I have read your comments with very careful consideration and would say that section 9 of the s106 routing agreement is open to legal interpretation in that once the entrance / exit on Church Lane has been created nothing within the agreement or the LDO makes a requirement for this entrance / exit to be closed to vehicular movements. If anything once the s106 conditions are met then nothing will stop vehicular movements of any size along Church Lane to and from the site and into the wider country road network for use as a short cut to the Watton Road and the A11.

This then questions Mr Ian Alston's statement as not being factually correct as he has given no such undertaking to stop using Church Lane once the A47 direct link has been established.

I then go back to an earlier question on the 4 May 2018 at 11:28 am, was it legal to impose a s106 as part of a condition within the LDO. If it is not deemed a legal right to impose such a condition. How is Broadland District Council going to rectify this position. It is my understanding that an LDO can only set conditions within it's legally recognised boundary.

I look forward to your comments on this and all the other matters I have raised.

Regards

Peter

Sent: Monday, May 14, 2018 at 2:41 PM
From: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>
To: "chair@eastonparishcouncil.co.uk" <chair@eastonparishcouncil.co.uk>
Subject: RE: Review Planning Application 20180471 and LDO File - FEZ

Peter

I have managed to book a room in reception at Broadland offices from 10.30 – midday for you tomorrow to view the LDO file and the current ref. 20180471. Just ask the receptionist for the files and they should be able to direct you to the room in reception.

I have also now had an opportunity to view the article in the EDP that you linked to your e-mail and considered your question about the final quote from Ian Alston in the article.

Para. 1.18 of the LDO sets out that a planning obligation accompanies the LDO pertaining to the routing of all vehicles in excess of 7.5 tonnes associated with the construction and operation of the site, requiring access via the permitted route only (i.e. that specified in paragraph 1.16 of the LDO). A copy of the legal agreement dated 31/10/17 in respect of the routing proposals is available to view on the Council's web-site under planning ref: 20170052.

This has been completed and I assume that this is 'the legally-binding routing agreement' that Mr Alston has referred to. The legal agreement includes plans which show that Church Lane will be used to access the site, but there is a clause (No. 9) that sets out that 'the requirements of this deed shall only be operative until such time as vehicular access is provided between the site and the A47 trunk road in accordance with the requirements of conditions 2.20 & 2.21 of the LDO and that so soon as that vehicular access has been provided to the satisfaction of the Council and is in use, the obligations and provisions of this Deed shall thereupon be of no further effect.'

Based on these details I'm content that the information within the quote that has been attributed to Mr Alston is correct, although I note that this wasn't a condition of the LDO as the legal agreement accompanies the LDO.

I trust this answers your enquiry.

Regards

Matthew

Matthew Rooke

Tel: 01603 430571

West Area Planning Manager

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From: chair@eastonparishcouncil.co.uk [mailto:chair@eastonparishcouncil.co.uk]

Sent: 11 May 2018 16:12

To: Matthew Rooke

Subject: Re: RE: Review Planning Application 20180471 and LDO File

Matthew,

Thank you for your prompt reply, I would like to attend on Tuesday morning at around 10:30am. Thank you for your offer to meet, but unusually on this occasion I feel it is best if I read and digest the file contents before I formulate any queries.

However in the mean time I refer to the EDP article of yesterday ([Link](#)) in which Mr Ian Alston stated "As a condition of the LDO we have had to pay for a legally-binding routing agreement, which states that once the improvements are in place we will cease using Church Lane for access to the FEP." If this is true can you advise were I can find the evidence to support this statement, but like wise should this statement be untrue, can you confirm that BDC will be looking to set the record straight with the public.

Regards

Peter

Sent: Friday, May 11, 2018 at 3:35 PM
From: "Matthew Rooke" <matthew.rooke@broadland.gov.uk>
To: "'Peter Milliken'" <chair@eastonparishcouncil.co.uk>
Subject: RE: Review Planning Application 20180471 and LDO File

Peter

Thank you for your e-mail, I can make the file available for you in our reception area any day next week, if you want to see me at the same time I can see you on Tuesday, Thursday morning or Friday next week.

If you can let me know in advance I will make sure both files are with the reception staff ready for when you come in.

Regards

Matthew

Matthew Rooke

Tel: 01603 430571

West Area Planning Manager

matthew.rooke@broadland.gov.uk

Broadland District Council

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From: Peter Milliken [mailto:chair@eastonparishcouncil.co.uk]
Sent: 11 May 2018 11:25
To: Matthew Rooke
Cc: Heather Byrne
Subject: Review Planning Application 20180471 and LDO File

Dear Matthew,

I would like to arrange to visit BDC early next week to look over the planning files you have in relation to application 20180471 and LDO File. I understand from Heather that you have both files.

Which day is most convenient for me to attend.

Regards

CLlr Peter Milliken

Easton Parish Council

01603881035 / 07702243717

- Easton PC complaint.pdf
- Planning_Milliken 22 05 18.pdf