

## **Notes of Zoom meeting with Louise Morton of Quadrant Planning on 28.05.2020 regarding the redevelopment of the Zourka site in Church Lane Broadwas**

Present were Councillors E Dale(ED), R Pearce(RP) & J Guest(JG) and Louise Morton(LM).

The purpose of the meeting was to receive Louise Morton's advice regarding implementation of Condition 5 of the planning consent granted on appeal (MHDC reference 17/00169).

LM explained that in her professional opinion the latest landscaping plan as approved by MHDC does not comply with the appeal decision. The reason for this is that Condition 5 refers to an indicative landscaping plan and states that "details shall be in general accordance" with that plan which in her judgement the approved plan does not do. Nevertheless, it was a fact that that Condition has now been discharged.

LM confirmed that the Parish Council had been correct to challenge MHDC officers and councillors on this point and she had noted that they had not accepted that an error had occurred. In the circumstances, there were two options by which the Parish Council could formally challenge the discharge of Condition 5:-

1. It could seek a Judicial Review. Cost aside, LM would be very wary of pursuing this course of action as the dispute is in essence a matter of interpretation. Therefore, very hard to prove to the level required by a court in order for the discharge to be revoked.
2. It could refer the matter to the Planning Ombudsman. The Ombudsman would consider whether there has been any maladministration and, if so, whether there had been any resultant harm. Harm in this context does not have a statutory definition but LM suggested that it could be interpreted in a fairly wide sense – e.g. harm to an individual or to the ecology. Her view was that, whilst it might be possible to prove maladministration, it would be much harder to show significant "harm" for the reason set out below.

LM said that the reason why it would be very difficult to prove significant harm was because the effect of approving the alternative landscaping scheme was that the land now outside the garden of Plot 3 would remain open and undeveloped i.e. in a very similar state to how it would be if it was contained within a large garden belonging to Plot 3, and as such it would be difficult to demonstrate that this resulted in harm. Also Aaron Black of MHDC had been correct in stating that the change in the plot layouts would have no measurable effect on the likelihood of planning consent being granted for further development of the land in question in the future.

LM then moved on to the wider issue of the relationship between the Parish Council and MHDC. She identified the problem as being one relating to the level of consultation. She clarified that, in planning terms, the dispute regarding the Berryfields Close development was different from the Zourka scenario, as the former related to non-material amendments to a

planning consent whereas the latter was in respect of the discharge of a Condition set out in a planning consent. The two issues were, however, linked as the same principle is involved. This is that there is no statutory obligation on local planning authorities to consult with parish councils in relation to either matter – although it is open to a local planning authority to decide to do so should it so decide.

LM therefore suggested that the Parish Council might wish to approach MHDC (probably through our District Councillors) requesting that MHDC amends its working practices to the effect that in appropriate circumstances District Councillors and Parish Councils should be consulted when the Planning Department deals with:-

- a. Non-material amendments to planning consents (as specified in Section 96a of the Town & Country Planning Act 1990).
- b. Minor material amendments to planning consents (as specified in Section 73 of that Act).
- c. The discharge of Conditions laid down in a planning consent.

(N.B. LM did not define “appropriate circumstances” but it subsequently occurred to RP that these might be when one of the District Councillors notifies the Planning Department that the consent is sufficiently sensitive to require this level of scrutiny.)

ED concluded the meeting by thanking LM for her advice and guidance to the Parish Council on this matter.

**RP**  
**28.05.2020**