

Stage 2 of STMBC Corporate Complaints Procedure  
To George Mansbridge, Head of Development Services  
South Tyneside Council  
Town Hall  
South Shields  
Tyne & Wear NE33 2RL  
27.3.2014

Dear Mr Mansbridge,

I complained under Stage 1 of the Council's Corporate Complaints procedure on 9th September 2013 concerning the development at Tyne Slipway and Engineering Company, River Drive, South Shields. I received a response from your colleague Gordon Atkinson, Planning Manager, on 18th September 2013.

My complaint related to apparent negligence by South Tyneside Council in not fulfilling its mandatory statutory obligation to enforce planning law; and a breach of planning law by those responsible for the development at River Drive.

I am not satisfied with the response I have received and wish to take my complaint to Stage 2 of your procedure.

The development permitted in 1996 As Gordon Atkinson subsequently conceded when confronted with incontrovertible evidence from my neighbour Mr M. Dawson, and apparently STMBC's own legal advisors, the structure has not been built in accordance with any approved plan. On 18.9.2013, Gordon Atkinson wrote to tell me that "the dimensions of the steelwork have been checked on site and they are in accordance with the measurements shown on the approved drawings". This turns out not to be true.

On 13.2.2014, Gordon Atkinson wrote to my neighbour Mr M. Dawson, who had measured the structure reliably, to tell him that: "the current structure is not built to approved plans". I present the permitted dimensions against those of the structure measured by STMBC and supplied to my neighbour Mr M. Dawson:

Since the foundations layed and inspected 26.2.2001 and a further inspection on 22.5.2001 were evidently for a different structure to that which has been built (a different width, height, and shape), full planning permission should have been applied for by the developers for the new structure they intended to build before work started in 2013, and STMBC Planning should have insisted on this, stopping all work the moment it started on site in advance of my Stage 1 complaint or immediately in response to it and to others from local concerned residents.

The approved drawings

There appears to be considerable confusion within the planning authority as to what drawings were approved by the Tyne and Wear Development Corporation in consultation with South Tyneside Council in 1996. It seems that the developers, once they started work without warning in 2013, supplied South Tyneside Council with plans which had little to do with the structure they were actually building, and even less to do with the plans that Built structure measured by STMBC:

Length 22.254m

Width 13.1m

Height at end facing River Drive 15.5m from foundation top

Height at end facing river 18m from foundation top

Grant of planning permission, 1996:

Length 21.34m

Width 10.5m

Height at end facing River Drive 12m from foundation top

Height at end facing river 15m from foundation top; 17m from mud

were supplied to me by STMBC Planning when I requested them, and to which the grant

of planning permission particulars and conditions applied in no uncertain terms (particulars and reasons for conditions 1 to 5 - Ref: ST/26/96/96; LA Ref: ST/0242/96UD, decision: 8.7.1996; issued: 28.8.1996).

The developers misrepresented to STMBC the plans of the structure they were by then building on 6th September 2013, and the planning authority subsequently re-presented these plans (eg. 8296 /1A&B) to local residents and Tyne Gateway Association members and officers, and STMBC councillors who met with planning officer Peter Cunningham to debate their validity. It now turns out that these plans detailed to scale a significantly different structure both in shape and dimensions to the one that the developers were at that time in the process of building. Local resident complainants have had the telephone put down on them, and attempts have been made to silence their complaints with dismissive comments, eg. from Peter Cunningham, such as "the matter is closed", before refusing to respond to further reasonable communications from local residents. These are serious instances of how the planning authority has not been dealing even-handedly between the developers and constituent local resident complainants.

Conditions of the planning permission

It is perfectly clear to me that not one single particular of the five particulars of the decision of 8.7.1996 (Ref: ST/26/96/96; LA Ref: ST/0242/96UD, issued: 28.8.1996) have been complied with by the developers. It also appears that the planning authority has done nothing in the performance of your mandatory statutory obligation to enforce the conditions upon which planning permission was granted. These particulars and conditions are very important because of the proximity of residential and retirement housing and the leisure and tourism amenity of the local area recognised in the reasons for the conditions and subsequent STMBC area development policies and plans from the time of the application in 1996 up to the present (cf. Development Framework Core Strategy Objectives, below).

The conditions:

1. The foundations signed off in 2001 were not those of the structure constructed in 2013. The structure to which the planning permission relates has little in common with the structure that has been built.
2. Far from being "in complete accordance with approved plans and specifications", the development to which the permission relates "is not built to approved plans" - G. Atkinson, STMBC Planning Manager, 13.2.14.
3. In direct contravention of the condition that no work shall commence until full external details of external materials and colours have been submitted and approved, these plans were submitted well after construction commenced.
4. Even these plans as displayed on the planning portal do not relate to the structure built. The northern, riverside end of the structure for which the access door for boats is drawn (possibly in accordance with the genuine planning permission granted by TWDC in consultation with STMBC) is presented as some three metres lower than that of the structure built. It seems now that the developers have given up on putting any door at either end of the structure, let alone at the two ends that G. Atkinson appeared to expect in his letter to Mr M. Dawson of 13.2.14.

In complete contravention of the planning conditions, the developers have now started noisy and polluting work inside the structure on a Port of Tyne vessel without any door at either end of the structure to prevent "emission of over-spray particles to the surrounding environment". As the structure is "is not built to approved plans", I am assuming that its construction has not been signed off by STMBC. Why then has STMBC not acted to stop work ship repair at the site?

5. The developers have continued to breach the hours of work conditions for which numerous complaints have been made and registered with STMBC by local residents (eg. Sunday working, and work outside the permitted hours of 7am to 7pm not allowed by the

conditions of the grant of planning permission). The planning permission emphasises under the reasons for the conditions the terms of the Town and Country Planning Act, 1990; "to ensure that the development shall not vary from the approved plans"; "to ensure a satisfactory form of development in the interests of the visual amenity of the area"; and "in the interests of the amenity of the surrounding area, which includes residential and tourism / leisure related activities".

The structure as built was not started in 2001 and is therefore some seventeen years late in commencement;

G. Atkinson has now acknowledged that it is "is not built to approved plans"; the structure is very far from being in the interests of the visual amenity of the area and local petitions and campaigns demonstrate this; nor is it in the interests of the amenity of the surrounding area including residential and tourism / leisure related activities. Local petitions and campaigns are likely to continue to demonstrate this until the local authority acts to enforce the particulars and conditions of planning permission, for which you have mandatory statutory obligations.

Designated purpose of land

I understand that the law requires that all applications for planning permission should be decided in accordance with the policies of the local authority's development plan. In failing to consult publicly since the developers started work on the illegal structure, in failing to ensure that the developers conduct and abide by appropriate social and environmental risk assessment and impact studies, in failing to conduct such studies yourselves with regard to the impact of the work which the developers plan to undertake at the River Drive site, and in failing to act against the developers for their breaches of planning law, STMBC is failing in its mandatory statutory obligations and responsibilities, and acting against its own Development Framework Core Strategy Objectives, eg:

"To protect and enhance the borough's coastline and water frontage; to ensure that the individual and cumulative effects of development do not breach noise, hazardous substances or pollution limits; to increase public involvement in decision making and civic activity".

G. Atkinson's reply to my Stage 1 complaint does not address the kinds of work that the developers plan to undertake within the structure built in association with further structures concerning which Peter Cunningham of STMBC Planning had a pre-planning meeting with the developers in August 2013. The industrial processes planned to be undertaken will be unacceptably noisy and polluting, as they have already proved themselves to be, taking place within just a few metres of residential and retirement housing at Harbour View, below Green's Place, just across the river from residential and trading property in North Shields, and involving the installation of a huge 70-ton crane and at least two more large sheds, possibly built back to the road at River Drive, further destroying the visual amenity, and residential, leisure and tourism functions of the area and its surroundings in contravention of planning conditions from 1996. The developer plans to carry out shot blasting and other noisy and polluting industrial procedures. It was because of such plans that the planning conditions were put in place in 1996 after South Tyneside Council's own Environmental Services department presented objections on these matters to TWDC. It is not acceptable that the local authority is now simply hoping for the best and aiming to act only responsively to problems as they emerge. Major social and environmental problems have emerged, and more will emerge if STMBC does not act to prevent them. The planning authority, alongside environmental services, should be carrying out impact studies, including with local residents, to discover both their concerns and the full detail of what the developers are planning. All this information should be reported openly and transparently in public. STMBC have failed so far to do this.

Quite the opposite. There have been instances over the last six months of information being hidden (eg. built structure dimensions) while attempts have been made by planning

officers to silence local resident complainants (cf. above). It is clear to me that the planning authority is not dealing even-handedly between the developers and the local resident constituent complainants. The heavy industrial use to which the developers are intending to put the land at the River Drive site will cause noise and other pollution and great nuisance to local residents and traders north and south of the Tyne and visitors and tourists using the river front, Green's Place and River Drive. Recent comments from planning officers that the site is one of established industrial use are not true, and exemplify again the uneven-handedness with which local residents are dealt with in their opposition to the developers' callous breach of planning law. Small scale boat repairs are a very different matter from the heavy industrial uses planned, and the land adjacent to residential property has been a park for small leisure craft from before the time that the planning conditions were set in 1996. Going back through public records, remarkably little industrial activity has taken place on this land, and all of it very small scale.

Given the misrepresentations and breaches of planning law (not to mention serious health and safety concerns) which have already taken place concerning the Tyne Slipway and Engineering Company slipway site, I suggest that the developers cannot be trusted or relied upon to abide by these or any further conditions which may apply to retrospective or additional planning applications which the developers may make.

The alleged breach of planning control

Having responded to my Stage 1 complaint with "the dimensions of the steelwork have been checked on site and they are in accordance with the measurements shown on the approved drawings", G. Atkinson has now conceded that the structure "is not built to approved plans" (cf. letter to Mr M. Dawson and associated measurements as detailed above). G. Atkinson's reply to my complaint in September 2013 exemplifies how the local authority has not been dealing even-handedly with complaints from resident constituents against the illegal actions of the developers.

I have addressed above (Conditions of the planning permission) how all the conditions for planning approval of the structure at the River Drive site have been breached by the developers, and how the planning authority has failed in its statutory mandatory obligation to enforce planning law.

Other questions raised

Concerning the transfer of ship repair activities from the larger UK Docks site at Commercial Road, Tyne Dock, I understand from G. Atkinson's reply to my Stage 1 complaint that the move appears to have been necessitated by the Port of Tyne Authority's development proposals at its Tyne Dock estate, and I understand that the Council has no control over Port of Tyne's estate management activities beyond your own responsibilities and statutory obligations as the planning authority. My concern is that local residents and other interests referred to in the planning conditions for the smaller River Drive site (eg. visual amenity and leisure and tourism interests) appear to have been neglected without impact studies, consultation - or indeed the exploration of alternative and more amenable solutions, eg. other, more appropriate, sites - either by Port of Tyne, the developers, or the planning authority. It does not seem to me to be fair or even-handed that the interests referred to in the planning conditions for River Drive, including those of local residents, should not be considered by the planning authority as other than inevitable collateral damage from whatever decisions, agreements, and actions have been made between third parties with or without the knowledge or involvement of STMBC. I have to ask if STMBC has given any assurances to the developers of the River Drive site on planning matters and, if so, what such assurances may have been.

Conclusions

I do not accept that the council has dealt with this matter appropriately or professionally. The council has not acted promptly; it continues to get factual matters very wrong; and has

failed and is failing in its appropriate service to residents in accordance with its mandatory statutory obligations with reference to planning conditions referring to the River Drive site and its own Development Framework Core Strategy Objectives. The development has not been carried out in accordance with approved plans and the planning authority should act against the developers to have the illegal structure taken down and removed from the site. If the developer is under no legal obligation to carry out relevant research, impact surveys and consultations, the local authority, if you are to plan prudently for the future welfare of constituent residents and traders, certainly is.

Yes, I am dissatisfied with the response I have received from the Planning Manager, Mr G. Atkinson, and this is my Stage 2 Complaint to you.

Yours sincerely,  
Matthew Burge