

Greens Place  
South Shields  
NE33 2AQ

Ref: 248789

2nd September 2016

Dear Ms Johnson

South Tyneside Council and the Local Government Ombudsman

Thank you for your letter of the 1-Aug-2016 in response to my letter to the Chief Executive on the 8-Jul-2016 about the conduct of his staff over the last two and a half years. Thank you also for the Section F document – Unreasonable and/or Persistent Complainants.

You say that you manage the process and staff that support customer complaints but you have not made it clear if the opinions expressed in it are your own or you are writing on behalf of the Council. As some of my complaint concerns staff who, I believe, report directly to the Chief Executive I think you may not be in a position to question their conduct in respect of my complaint 248789.

You will appreciate that when I am complaining about the conduct of Council staff I need a case for reference. I am basing it on 248789 but I note that you refer to 253539 in your reply on behalf of the Chief Executive. This may explain why you can find no evidence to suggest that the Council deliberately misled the Local Government Ombudsman (LGO).

Now I know one of your responsibilities as a Corporate Lead Officer I will take this opportunity to comment on your response to Anne-Marie Trevelyan, the MP for Berwick who wrote to the Chief Executive on 01-Jun-2015 from the House of Commons.

It would have been courteous of you to have sent me a copy of your letter in which you use the pejorative phrase 'allegations raised by your constituent'. As it happens I did not see what you had written on 25-Jun, to the MP, till January 2016, some six months after you had written it, and only then because I requested a copy from Customer Advocacy. I gave up asking the MP about whether the Chief Executive had responded and it was only Alison Hoy's email to me on the 9-December 2015 that prompted me to ask. Ms Hoy kindly sent me a copy.

In my letter to Ms Hoy asking for a copy of your letter to the MP I said I was waiting to hear from the MP, Anne-Marie Trevelyan, before I complained to the LGO about their Inspector's report. I have not yet complained. I consulted a solicitor about Ms Hoy's letter because I felt that she was being used by Mr Simmonette to avoid answering the question of the planned height of the shed.

The Solicitor's view, off the record, was that UK Docks, in saying they were building the shed to approved plans when they were not, was probably criminal fraud but the police were unlikely to act on a planning issue. He also suggested a civil court may not be the best way forward but he did say that in his view we needed to raise a new complaint. The new complaint being the misinformation and/or misrepresentation by the Local Authority in supplying information to the LGO. It so happens I'm using the UK Docks development but I could be using the application for demolition of the Beacon for instance.

You were not to know but the original letter to the MP was sent to MP for South Shields in March, but Anne-Marie Trevelyan responded because of parliamentary rules. It was becoming increasingly clear to me that the Inspector for the LGO was being misinformed by the Council as she was not taking any notice of what I was saying. It appears that she was taking more notice of the misinformation given her by the Council than what I was saying.

Anne-Marie's summary of the situation is fair, it is certainly better than I could have done. She was however, not specific about which end of the shed has a planned height of 15.5m. I wrote to her and copied the letter to the Chief Executive and said :

*You have not specified that the stated height (15.5m) is of the river end of the shelter and it is likely that, the Chief Executive, if he follows the arguments of the Planning Manager and Mr Mansbridge before him, will say it refers to the road end. The drawing, 8296/1A which they have used for their argument also states the height of the river end as 15.5 meters. This is clearly not consistent given the slope of the slipway.*

You say you had made enquiries the matter. It appears that you were misinformed about 8296/1A. It is not authorised. The Planning Manager said on January 28th 2014, "Following a search of our archived file the only drawings that we have that are stamped 'Approved by Tyne and Wear Development Corporation' are 8296/2 and 8296/4."

As both ../1A and ../1B show the river end to be 15.5m it is therefore equally reasonable for me to say that the road end is 12.8m. If, as the Planning Managers says, they are consistent with authorised drawing 8296/2 (river end height of 16m, road end of 13m), it will only go to confirm that the river end height is correct at 15.5m and not the road end.

Incidentally, 1B was produced in 1997 and, perhaps, should not be considered as a legal document in respect of a grant made in 1996. In my letter to MP Trevelyan I go on to say:

*Knowing that both ends of the slipway cover were given heights of 15.5m on drawing 8296/1A I used a different drawing to gain the admission of the Planning Department that the cover had not been built to an approved plan. They had said at first it was being built to approved plans. This drawing, 8296/14, is available on the planning portal for all see (8296/1A is not readily available) and it shows the river end gable with door fittings. It has sufficient detail on it to determine that the height is near enough 15.5m i.e. - nowhere near the 18m of the built height of the river end.*

I add a catch all at the end: "If the Chief Executive provides any new plans to show you that I am wrong in my assessment of the development on River Drive by UK Docks please let me know."

You did not provide Anne-Marie with any new plans – ergo my assessment is correct and the LGO Inspector is wrong in her final assessment and therefore she has been misinformed by the Council.

1. How 'deliberate' it was, I cannot say, because I am not a legal expert;
2. Did it not occur to you that if I took the trouble to write to the MP I would be certain that what I said was true and stand in a court of law?
3. That if the river end is 15.5m the road end is not 15.5m, it is less by the slope of the slipway (gradient 2.7m) or 12.8m.

If you had reviewed the original complaint of the 10-Jan-2014 and the correspondence following it up to 13-February, as I had asked of the Chief Executive, you would have realised that the Planning Manager had effectively agreed that the shed was 2.7m too high. He and I were discussing the height of the shed and he could no longer maintain the

pretence that 8296/14 referred to the road end.

It appears from your letter that you have not reviewed the emails (10-Jan to 13-Feb 2014) as I suggested to the Chief Executive. Your legal section should be able to provide them but if not, I will be very willing to let you have copies.

One only has to look at the drawing to see that it is: a) the river end (note about access for boats) and b) has a height to width ratio of about 5:4 which corresponds with 15:12 not 18:12 whatever the scale of the drawing. Why he went on to say that it was not to scale, was not only irrelevant but appears to be a piece of misinformation designed to get himself out of an embarrassing situation. He had already said that the gable was the road end.

You say you can find no evidence to suggest that there has been deliberate misinformation provided by Council officers to the LGO. I suggested earlier that you may have been looking in the wrong place, 253539 instead of 248789 but it could be that I clouded my explanation to the Chief Executive with too much information. I present the items again, more plainly I hope, with the addition of the Case Officer's item of misinformation first.

1. 13-Jan: referral to meeting where we were told the shed was 'legal' [I went and measured the width of the shed after the meeting and found it to be a meter wider than planned. 8296/14 published in December 2013 confirmed it to be 2.7m taller than planned];
2. 15-Jan: the base and height of the structure are compliant [see 1: 13-Jan]
3. 15-Jan: 8296/1A said to be approved. [the drawing is not approved];
4. 15-Jan: The overall height of the structure as 15.5m above the foundation level at the landward end. [the dimension at the landward end is in error, it is 2.7m too high];
5. 28-Jan: the Planning Manager said the drawing was the road end [it is the river end];
6. 13-Feb: River gable end is not drawn to scale. [it is drawn to scale].

Four of these misrepresentations re-appear in the findings of the Inspector, 15-Apr-2015, in spite of reasoned arguments that I sent her. Items 3 and 4 link to #34 and #35 of the final LGO draft which illustrate how the Council deliberately misled the LGO .

34 - I have seen the 1996 plans. On plan 1/B the applicant has written the proposed elevations at the inland end as 12.5 metres plus 3 metres. Mr Dawson says the Council should not have taken the applicant's word for this...The Tyne and Wear Development Corporation as planning authority approved this.

35 - In January 2014 the Council wrote to Mr Dawson about this. It said the overall structure on the plans is 15.5 metres at the land end and the foundations are 2.656 metres lower at the river end due to the gradient...Since then the Council has consistently told Mr Dawson the shed is the correct height.

The the only difference between ../1A and ../1B is the foundation detail. Tyne and Wear Development Corporation did not approve either of the drawings and ../1B was drawn in 1997. Items 5 and 6 link to #37 of the final LGO draft.

37 - Mr Mr Dawson says plan 14 shows 15.5 metres as the river end height. The Council has explained to Mr Dawson why this is not the case....The drafter has not specified which end this is and the drawings are not to scale.

I explained to the inspector that 8296/14 referred to the river end of the shed and that it indicated a planned height of 15.6m. I have no record of the Council explaining to me why it was not the case and I do not think you will find one either. They do keep repeating, contrary to the evidence, that the road end is 15.5m but that does not make it true. The drafter has

has put a note on the drawing ../14 to say that strips are drawn aside to allow access for boats which makes it perfectly clear that the drawing is of the river end. The boats come up the slipway from the river.

The LGO had been deliberately misinformed because items 2-6 appear at the end of each of paragraph, 1 for each of #34 and #35 and 2 for #37.

I did not bother to correct the misrepresentation, about drawing 8296/14 not being to scale, with the Planning Manager but that does not make it valid. I knew what he was saying was rubbish because it was me that pointed out to him that the draughtsperson had specified the size of the portal columns (and by inference the roof beams) from which one could gauge the height and the width of the shed. I'll correct it now, and would appreciate it if you could communicate this to all of the Council especially Messrs Simmonette and Mansbridge:

- The beam, rafter and columns (horizontal, diagonals and verticals) are all the same dimensions (686 x 254mm) and by scaling give a size of 15.6m x 12.2m. The width accords with the planned width of the 1996 drawings so it is reasonable to assume that the drawing is to scale and that the planned height is 15.6m;
- The Planning Manager did not say it was out of scale when he assigned it to the wrong end of the shed;
- Customer Agency said it is clear that drawing 8296/14 was submitted in 2013 for the purposes of discharging a planning condition and as such, could never supersede the previously approved plans in terms of defining the dimensions of the approved development. This would confirm 8296/1A river end of 15.5m;
- No reputable firm of architects would publish such a detail such as this out of scale and anyone working in a well run planning office would know this;
- Maughan, Reynolds Partnership Ltd would not be at all pleased that the Council were giving a misguided opinion of their work to the LGO.

I can only say that if you, the Council that is, had been more honest from the beginning then I would not have needed to raise my original complaint in January 2014 and much, if not all, of the correspondence since then would not have occurred.

The Case Officer tells me the shed is compliant when it is not and says do not email him again, 20-Dec-2013, the Planning Manager repeats what the Case officer has said about compliance, 15-Jan-2014. He also says a drawing of the river end refers to the shorter road end of the shed and tries to pass me to the next stage of the Council's complaints procedure. Worst of all the Head of Development Services says there is no significant variation in height when deciding whether to take enforcement action when I have already pointed out to him that the shed was more than 8ft (2.4m) taller than planned, 4-Apr-2014.

In the light of this volume of misrepresentation/misinformation generated by the Council concerning the development on River Drive I take your threat of Section F as offensive and somewhat hypocritical. Just consider the bullet points in your letter:

- Letter to MP Trevelyan dated 1 June 2015 advising her of your complaint - *Actually the letter of 1-Jun-2015 was from MP Trevelyan to the Chief Executive and copied to me;*
- Email 4 December 2015 to Gary Simmonette and the Planning Team referencing the original boat shed dimensions, which had been addressed through the complaints procedure -

*If you had read my email 4-Dec to Mr Simmonette you would realise it was about the illogicality of applying for planning permission to extend a shed that had been built without planning permission;*

- Email 1 February 2016 regarding the February committee meeting, making reference to misinformation and/or misrepresentation by the Council in supplying information to the Local Government Ombudsman.

*Mr Simmonette had not responded to my email about the illogicality of applying for planning permission to extend a shed that had been built without planning permission. He had passed it to Ms Hoy to deal with;*

- Letter 8 July 2016 to the Chief Executive and the Ombudsman -  
*Actually the letter of 8-Jul-2016 was to MP Trevelyan and copied to the Chief Executive – I have not written to the ombudsman yet as there are number of items of misrepresentation, about the development on River Drive, made by the Council to residents, the LGO and an MP that need sorting first;*

- submitted repeated complaints, essentially regarding the same issue, after our complaints process has been exhausted -  
*It is the same complaint, 248789, but some issues have not been satisfactorily addressed because Mr Mansbridge raised 253539.*

*The issue is not exhausted until the Council answer the question about planned height of the shed.*

- adopted a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/independent auditor/the Standards Board/local police/solicitors -  
*I have not written to the local police, independent auditors or the Standards Board which you are implying.*

*If I think that the Council is acting improperly on any issue I believe I am entitled to write to my MP – it is up to the MP whether he or she takes up my case.*

*I wrote to my ward Councillors because they, apart from the Chairman of the Planning Committee(Cllr Wood), attended the meeting where we were told the shed was 'legal'. Are you suggesting that the Councillors should not be told that they were misinformed by a Principal Planning Officer of the Council?*

*I included members of the Residents Group Committee as well because I had to relay the 'facts' to a meeting with them a few hours after the same meeting where we were told the shed was 'legal'. I did not believe what I had been told by the Officer and it took me 2 months and numerous emails to prove that shed was not 'legal' or should I say compliant. Are you suggesting that members of the Residents Group should remain ignorant of the fact that the shed was not compliant and built without planning permission?*

- refused to accept the decision of the Council or Local Government Ombudsman, by arguing points of detail -  
*the Council have based their decisions on drawings provided by UK Docks. These were not authorised and one of them was incomplete because there were vital details missing. I based my arguments on documents provided by their Agents in pursuance of ST/1146/13/COND which I considered more valid.*

You also say I have attempted to have the complaint reconsidered in ways that are incompatible with your adopted complaints procedure, or with good practice. Please note complaint was not treated properly from the beginning:

1. the Principal Planning Officer received it but did not register it;
2. the Planning Manager registered the escalation, not the complaint details;
3. Mr Mansbridge instructed his staff to wind it up before the first stage was complete.

Is it good practice to tell representatives of a protest group and the Councillors that a structure is 'legal' when it is not? Is it good practice to keep repeating that a structure is built to an approved height when it is not?

The Council have not produced any legal documents in nearly three years to support their contention that the shed is built to an approved height and no-one will enter into a debate about it. When probed, they: a) avoid the issue, b) say or imply, wrongly, that the shed is built to approved plans, c) refer the issue on to someone else or d) say the subject is closed. Apart from a) they often add or repeat an item of misinformation which is what has complicated the matter.

I have collected many examples of this sort of response from the Council, the first being from the Case Officer a few days after the frames were first erected because he did not answer the question, "Has the revised height of 15.5metres been approved or is it in breach of the 1996 Planning approval?" He referred the questioner to the Council's complaints system.

Even Customer Advocacy would not settle the question of height. I had broached the subject with them in a letter to the Chief Executive 7-Jul-2014. It was never mentioned in their Stage 3 reply, 25-Sep, and I quote the relevant paragraph:

With respect to your comments about the deviation in the measurements of the shelter 'as built' compared to the approved scheme, I am satisfied that when George Mansbridge made the decision on behalf of the Council that it was not expedient to take planning enforcement action, he was fully aware of the discrepancies noted in your email with regards to the width of the structure and the variation in pillar angle.

Your response to my letter to the Chief Executive is just another example. I asked him to review the early correspondence from 248789 and pronounce on the planned height. You have not done this and you now consider this matter closed. You have also included another misrepresentation i.e. there is no evidence to suggest that there has been deliberate misinformation provided by Council officers to the Local Government Ombudsman.

It is not a complex matter, as a UK Docks representative said to the local paper, Shields Gazette 9-Sept-13, "All I can say is that we have been through all the controls with the planners, and the work meets all the necessary legal requirements. All we are doing is going ahead with the previous planning permission."

Quite simply, there was a lack of control over what UK Docks built, it was not built to authorised plans and thus built without planning permission. It is still in use nearly three years after the local residents first questioned the height and received no answer.

Yours sincerely,

Michael Dawson  
CC: Customer Advocacy - MH