

Analysis of LGO Findings – *criticism in blue.*

21. The Council considered if the building accorded with the approved plans. The planning officer originally assigned the case considered the developers were building the boat shed to the measurements in the 1996 plans. Mr X says he told residents this at a public meeting. The Council accepts these measurements were wrong.

*I repeated what the planning officer told me at a meeting in the Town Hall on 25th Nov 2013 to a meeting of Local Residents some 6 hours later. I did not believe what I had been told but I did not know the dimensions of the structure so I had to assume that what was being said was true. The dimensions were known to the Council in September but I was not given them until the end of January.*

22. A more senior officer checked the measurements; he found the width at ground level was just less than one metre wider than the permission allowed. The Council decided the developer had not built the shed entirely in accordance with the approved plans and so had not met condition 2. The Council decided this was a breach of planning control.

Not what the Principal Planning Manager was saying on 13th January :

*I was eventually told what the dimensions were in an email, 28th January 2014, when I appealed to the case officer's manager although he at first said otherwise in an email of 15th Jan.*

30 – Mr X says the shed is also 3 metres higher than shown in the 1996 plans. He says a scale measurement from the plans shows a total height of 12.75 metres at one end of the shed.

*This is the first mention of the height and it is the road end. When I re-examine the plans it is clear that the draughtsman has made a mistake (12.5m to the top not the hip).*

31 – I have discussed this with a senior planning officer. The Council accepts that using a scale measurement against the 1996 drawings would not give a measurement of 15.5 metres. It says this plan has several drawings using different scales and some are foreshortened; possibly to fit on the paper. It says these are likely to be engineer's drawings. It says what it relied on was the dimensions written on the plans by the applicant. The applicant stated the height at this end as 12.5 metres plus 3 metres making 15.5 metres. The Council says the permitted height at this end is 15.5 metres and this is the height as built.

*1. Engineers drawings would by necessity be to scale.*

*2. That she says "dimensions written on the plans by the applicant" implies that the Senior Planning Officer is no longer referring to either 8296/1A or 1B.*

*3. We are now back to 8296/1A or 1B when she says "The Council says the permitted height at this end is 15.5 metres and this is the height as built. The the river end has a height of 15.5m on both drawings as well so the river end at 18m is nearly 3 meters too high.*

32 – It is too long ago for the Ombudsman to consider a complaint about the accuracy of the drawings accepted by the Development Corporation in 1996. In any event the applicant had written the dimensions and this is what the Council considered rather than measuring and scaling the drawings.

*The Senior Planning officer was quoting from a dimension given in error.*

33 – In response to a draft of my decision Mr X says the 15.5 metres height relates to the river end. He considers the land end should be 2.6 metres lower. He says the Council cannot prove 15.5 metres relates to the land end not the river end. I do not agree.

*What I actually say on the 3rd February is:*

*With reference to the drawing 8296/14 I have made no assumptions regarding this drawing but have taken my information from the drawing. There are three indicators that the elevation is the north end of the structure:*

- 1. Detail notes on the drawing " strips to draw back to each side to allow access for boats"*
- 2. The section at the door jam shows the cladding on the downward ie.North/river end. The alternative would have the cladding on the inside of the building.*
- 3. The apparent use of third angle projection would imply that the door is at the north end. The north elevation height is therefore 15.5m and subsequently the south elevation 12.5m.What made you determine that the elevation is the South end when there is no such detail on the drawing?*

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 X says the Council should not have taken the applicant's word for this.

*This drawing 8296/1B was: not authorised; produced in 1997; says the other end of the shed is 12.5+3m as well; not sent to the Inspector by me.*

35. In January 2014 the Council wrote to Mr X 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. It said the agreed structure is much higher at the river end. It said it had taken measurements on site and the shed as built matches these measurements. Since then the Council has consistently told Mr X the shed is the correct height.

*She is quoting from an email from the Planning Manager, 15 Jan 2014. What follows are details of the relevant drawings in the Council's possession. The drawing that was submitted on 11th April 1996 with the application is numbered 8296/1A. That shows the overall height of the structure as 15.5m above the foundation level at the landward end. At the riverside end the foundations are shown as 2.656m lower due to the gradient of the slipway. The structure would therefore be that much higher at the riverside end. 8296/1B is the same drawing captioned 'Foundations Amended. All Frames Identical'*

*What the Senior Planning Officer did not tell the Investigator was that drawing 8296/1A was not authorised and more importantly that it also shows the river end of the shed is also 15.5m and the structure would therefore be 2.656m lower at the road end, that is 13m. A more consistent interpretation of drawing 8296/1A would favour the lower height and this view is the one supported by reference to the authorised drawing 8296/2.*

36 – I have seen the report written for the planning committee by officers of the Development Corporation in 1996.

*Is this one that says they would not like to see any further development than the slipway cover or the one that is not specific about the height of the shed?*

37. Mr X says plan 14 shows 15.5 metres as the river end height. The Council has explained to Mr X why this is not the case. The developers submitted plan 14 in 2013 as part of their application to discharge condition 4. The Development Corporation did not approve plan 14 in 1996 and it is not a plan subject to condition 2. It shows how the developers intend to attach the end panels. One drawing shows an end with the panels in place to provide an impression of the final appearance. The drafter has not specified which end this is and the drawings are not to scale.

*That is not quite what the Planning Manager says in his email January 28th. "8296/14 is the recent drawing and the only purpose of that is in regards to the condition dealing with the strip curtain door fixing details. You explain that you have measured the height from this drawing as 15.6m, and you seem to have assumed that is the riverside elevation, and have*

*adjusted for the gradient of the slipway and concluded that the height at the River Drive side should be in the order of 3m less. In fact the 15,6m height is the height to River Drive and the height on the river side is some 3m greater.” The last statement is not true. The gable end shown on 8296/14 is of the river end.*

38 – The Council has provided a consistent and sound justification for its view the shed as built is the same height as that granted permission. The Ombudsman cannot criticise the Council’s view.

*The Senior Planning Officer has consistently repeated many misrepresentations to the Ombudsman and one only has to look at either of the two approved drawings to see that the Council had appointed someone to lie about authorised or approved height so that enforcement action could be avoided.*

42. Mr X says the Council took 15 months to admit the boat shed did not have planning permission.

*The Planning Manager agreed with me as the representative of the protestors after five months that the shed was not built to approved plans but told his manager otherwise and it was not until a year and 10 weeks after they declined to tell us what the planned height of the shed was that they said, “I can confirm that as previously advised, the Council accepts that the structure in question does not have planning permission” but followed it with “the Council’s Head of Development Services’ decision that it was not expedient to take planning enforcement action”*

43. The Council said in February 2014 the boat shed was not built in line with the permission. This is 5 months after residents had raised concerns. The Council had not ignored the situation in those months. It had taken measurements; dealt with applications to discharge conditions; and, negotiated with the site owners and residents.

*Not strictly true. The admission by the Planning Manager 13th February overrode his statement of 28th January. (5th September to 28th January is about 5 months). The Inspector has ignored my email of 3rd February – see 33 above.*

44. In April and May 2014 the Council wrote detailed explanation of why there had been a breach of planning control.

*In April just an acknowledgement and in May a detailed explanation based on a very dubious drawing. The Head of Development Services changed the identity of the complaint so that he was able to avoid answering 3 important emails concerning the handling of the complaint. Future development on the site.*

48. The developers have submitted an application for more development and Mr X would like the Council to prevent this. The Council cannot do this. The owners are entitled to request planning permission for further development. The Council must properly consider any application made against the Local Development Plan.

*It was said as part of the grant of permission that there was to be no further development in a residential area. I also think it is illogical to ask for an extension to a building that has been built without planning permission.*