



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Dyddiad/ Date	26 <sup>th</sup> May 2020
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## By Email

Mr Richards  
[dai@rugbyrelics.com](mailto:dai@rugbyrelics.com)

Dear Sir

### **Re: Planning Applications and Allegations of Misconduct**

Over the past few weeks, officers and elected Members of Neath Port Talbot County Borough Council (the "Council") have received numerous items of correspondence from you concerning allegations of misconduct and raising numerous queries and issues surrounding the planning application P2020/0195 (Land South of Heol Y Glyn, Glynneath).

The Council is of the firm belief that we have adequately responded to you on the issues that you have raised and advised you on the process which will be followed, such issues will be considered as part of the decision making process.

### **Future Representations**

As previously advised by officers of the Planning and Public Protection Service, you are able to continue to make representations on planning applications via the appropriate channels. While comments on planning applications are sought within the statutory consultation period of 21 days, this Council has a policy of accepting comments up until the application is determined.

**Any concerns that you identify in respect of ground contamination and other such matters, will be reported to Members accordingly as part of their**

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determination. Representations received in accordance with the Council's protocol are summarised and, where necessary commented on. A decision on the application will then be made in due course in an open and transparent manner, and all matters raised will be appropriately considered through the determination process.

You are advised that the application has been 'called-in' by your local Members for a decision by Members of the Planning Committee and through their review of the report (which would be publicly available for inspection in advance) they will ensure that they are satisfied that local concerns are adequately addressed before reaching their decision as will all Members of the Planning Committee.

In addition, you will be entitled to make an application to address the Planning Committee prior to determination in order to raise your concerns directly.

If following the determination of the application at Planning Committee you remain dissatisfied then there are numerous forums for further consideration of this matter, including referrals to the Public Services Ombudsman for Wales or even judicial review of the Council's decision. You might wish to consider therefore seeking independent legal advice on any options potentially open to you.

### Ground Contamination

The Council takes its responsibilities in respect of ground contamination with the utmost seriousness.

A site is considered contaminated land if (by way of a pollutant linkage) it poses a risk of significant harm to human health or the environment or significant possibility of that harm. The Geo-Technical and Geo-Environmental Report to which you refer, which supported planning application P2008/1462, did find low levels of contamination. I appreciate that you disagree with the interpretation the Council has adopted here, and provided a different analysis undertaken, however the Council considered the report at the time of that planning application.

It is important to note that Section 1.5 of the Contaminated Land Statutory Guidance stipulates:

*“Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.”*

As previously advised to you the Environmental Protection Act 1990 obligations no longer apply when a site is going through the planning process; therefore the Council has not at any point contravened its duties under this legislation, as it is not relevant once the planning process has commenced. Nevertheless, the Council is required to address land contamination (in line with the aforementioned guidance) to ensure sites are safe and suitable for use after development has been completed.

All concerns are routinely addressed throughout the process in consultation with the Council’s specialist officers on land contamination matters, as well as in responses from Natural Resources Wales (NRW). Where deemed appropriate by officers of the Planning and Public Protection service, recommendations as to potential conditions will be incorporated in any papers that go before Planning Committee Members. Such conditions, dependent upon the advice of specialists, may require risk assessments to be undertaken on site in addition to the completion of land remediation on site to ensure that the land is suitable for residential purposes thus protecting the health and safety of both existing and proposed residents.

#### Planning/Consultation Process

You appear to have expressed concern that the land has been identified in the Council’s Local Development Plan as being suitable for housing. The reason for this inclusion is that at the time of adoption of the Local Development Plan, there was a valid planning permission in place for the land for a housing

development and it was foreseeable that at some point during the timeframe of the Local Development Plan that housing could be constructed there.

That planning permission is extant which means it cannot expire. This is on the basis that a material start of works on site commenced before the original time limit had expired. As a result, this planning consent is capable of being relied on by the developer, and as such is a material consideration in the determination of any planning applications submitted on this site.

In respect of the current application, the Council has followed all legislative requirements and practice directions as part of its consideration of this planning application and would dispute any suggestion that it has not complied with any particular processes.

Planning applications should be decided within eight weeks, unless they require an Environmental Impact Assessment - in which case the time limit is extended to 16 weeks. If the Council fails, as the local planning authority, to make a determination in this period without securing an extension of time from the applicant, the latter is entitled to make an appeal to the Planning Inspectorate for non-determination. It is for this reason the Council is required to ensure that the determination of an application is not delayed unnecessarily.

We note that you suggest that the Council has acted illegally in the placing of a consultation notice on a post that is within the curtilage of your property. Should you feel that is the case, and a civil claim is feasible, the Council would ask that you forward notification of your claim to the Council's insurers, care of insurance@npt.gov.uk and provide evidence to substantiate this. Nevertheless I can only apologise if its placement on your land has caused you distress, as that was certainly not the intention of the case officer who attached it to the post.

As you are probably aware as part of the publicity requirements associated with planning applications, the Council is required to publicise the submission of an application to the owner/occupiers of all properties who bound the site and/or advertise by way of site notices. In this instance, given the scale of the site and associated development the Council has publicised the application by means of both site notices and letters. This was in an attempt to ensure that those potentially affected by the development had an opportunity to view the plans and to make comments if necessary.

It would appear that this publicity has been effective and all submitted comments will be summarised in the officers report and addressed in accordance with the legislation and associated guidance, thus ensuring that they inform the decision making process.

### Freedom of Information Requests

Throughout your correspondence with Mr Ball, you have of course made a number of Freedom of Information and Environmental Information Requests.

As part of the response, you were advised that the information is readily available on the Neath Port Talbot Council website – Planning Applications, for the avoidance of doubt; the link for access is

<https://planningonline.npt.gov.uk/online-applications/>

In the event that you have any difficulty accessing this information, please contact the Planning and Public Protection Officers and they can assist in resolving any such access issues.

You appeared to query whether there were any ‘guidelines, protocols or regulations relating to the building of houses on landfill or brownfield sites’, I would draw your attention to Welsh Government guidance in Planning Policy Wales 10 (pages 37 and 38). In essence these encourage developments on such land, though it does note if land is “highly contaminated” (3.51) it may not be suitable for development.

Our land contamination colleagues also have specific technical guidance they follow when considering the need to remediate and verify works on contaminated land. For example Welsh Government guidance refers to: BS10175 (2011) *Investigation of Potentially Contaminated Sites Code of Practice*; and the Welsh Local Government Association and the Environment Agency Wales ‘*Development of Land Affected by Contamination: A Guide for Developers*’ (2012). As stated previously, if they highlight the need for remediation they will recommend the imposition of an appropriate condition should planning permission be granted.

In the event you are not content with the response provided, the Council does have an internal appeals mechanism and you are able to refer your complaint to the Council's Monitoring Officer along with the reasons for your appeal care of [foi@npt.gov.uk](mailto:foi@npt.gov.uk)

In the event that you appeal and are dissatisfied with that response, you may then appeal direct to the Information Commissioner, whose address is: Wycliffe House, Water Lane, Wilmslow, SK9 4AF.

Allegation of Misconduct in respect of letter from the Head of Planning and Public Protection dated 4<sup>th</sup> May 2020 and 12<sup>th</sup> May 2020

You made an allegation in your email of the 14<sup>th</sup> May 2020 that *"The reply according to the letter is from Ceri Morris, Head of Planning and although the document is signed by Ceri Morris on his headed notepaper the author according to the documents Meta data is Steve Ball. This is deliberate misconduct by both Ceri Morris and Steve Ball."*

This has now been investigated and your concerns in this regard are unfounded.

As you may be aware, the author of a file would be whoever created it initially and any subsequent updates would not change the initial author.

The Head of Planning and Public Protection used a template letterhead that had in fact been created by Mr Ball and overtyped accordingly.

Mr Ball had no involvement in the preparation of the letter to you other than providing a copy of historical correspondence between yourself and Mr Ball so that full consideration of the matter could be given to enable a response to be provided to your concerns.

Allegation of mishandling of complaint process

You made an allegation in your email of the 14<sup>th</sup> May 2020 that you have *"evidence of Craig Griffiths and Ceri Morris working together to railroad me in and out of the Council complaints system without the opportunity to make an actual complaint through the correct Council procedure (correct complaints form attached). This despite my refusal to complain twice"*.

In the first instance, the role of Mr Griffiths as Head of Legal Services is to provide legal advice to all officers and Members of the Council on any legal issues that they require in respect of Council functions.

The Council appreciates that you did not structure your concerns and issues as a complaint but given you made serious allegations concerning code of conduct matters, it was felt that the most appropriate forum for the Council to take this matter forward would be to deal with it line with our complaints process. This ensures that the necessary resources can be utilised to record your concerns and the appropriate individuals can investigate the same. The added element for this was that if you felt at this stage you were still not content with the Council's response, you would have the opportunity to pursue any appeal to the Public Service Ombudsman for Wales should you then wish to do so.

The letter from the Head of Planning and Public Protection of the 4<sup>th</sup> May was the outcome of his investigation into your allegations against Mr Ball and as clearly stated in this letter, it was concluded that your concerns in respect of Mr Ball were not proven.

Mr Ball is a highly qualified and respected Planning Officer with considerable experience of the Development Management process, and I am wholly satisfied that both in general terms, and on this case in particular, that he has and continues to uphold the highest standard of conduct at all times and provided you with appropriate information and where this information has not been within his own expertise he has sought the views of the officers qualified in these areas.

### Council Tax

It is noted that you have presently cancelled your current direct debits for Council Tax in respect of the properties 32 Llantwit Road and 66 Brynhyfryd.

In light of the current Covid-19 pandemic, the Council is not presently actively pursuing enforcement measures to recover these sums and instead will be liaising with residents in the coming months within the Neath Port Talbot locality to discuss bringing their payments up to date or discussing difficulties.

Please note that following this, if payment in full is not received a summons may be issued.

### Walk Around Wales Website

You state in your correspondence that you intend to publish any responses you receive from officers and Members of the Council on your website. The Council acknowledges that you are of course free to do this.

However, I note you have placed details of your complaint on a webpage, with the page specifically highlighting the following statement: *“In two emails dated 1<sup>st</sup> & 2<sup>nd</sup> April 2020, Steve Ball failed to uphold the values of Neath Port Talbot Council as stipulated in the 2019-22 Corporate Plan and also breached the Council's Employee Code of Conduct”*.

Similar statements have been made in correspondence to a number of individuals concerning other officers and elected Members. Given that this content has been proven by the Council to be entirely without merit, such public statements are potentially libelous.

I would respectfully suggest therefore that you remove such statements from the webpage and refrain from such statements as failure to do so does potentially leave you susceptible to legal action.

### Conclusion

As advised above, any concerns that you identify in respect of ground contamination and other such matters, together with those from specialist consultees will be reported to Members as part of the determination process.

I am aware that you have written on multiple occasions to the Council and have received multiple responses. You have also been advised on a number of occasions that the Council will not respond to further correspondence with you on these issues, as it is felt that they have been already been responded to comprehensively. Whilst it is acknowledged that you are now receiving a further response, you should note that this is the last response you will receive from the Council in relation to your concerns on this planning application.



Should you wish to continue submitting concerns we will of course take them into account as part of the determination process, summarising any points raised within the officer's report. Given your interest in this planning application I will ensure that a copy of the officer's report is emailed to you as soon as it is published.

You have of course referenced in previous correspondence that you are giving serious consideration to referring the matter to numerous regulatory bodies such as the Public Services Ombudsman for Wales and South Wales Police. You are of course free to do so and the Council will cooperate with any investigation that they might undertake. The Council would dispute that there has been any wrongdoing here on its part, in any matter concerning the planning application, historic land issues and officer or member involvement.

In the event you wish to pursue such complaints, the appropriate contact details would be:

Local Police Commander  
Swansea Central Police Station  
Grove Road  
Swansea  
SA1 5EA

The Chief Constable  
South Wales Police  
Police Headquarters  
Cowbridge Road  
Bridgend  
CF31 3SU

Public Services Ombudsman for Wales  
1 Old Field Road  
Pencoed  
Bridgend  
CF35 5LJ  
([www.ombudsman.wales](http://www.ombudsman.wales))

Yours faithfully

*N.A. Pearce*

**Director of Environment and Regeneration**