

Fw: Closing Submissions - Holmfirth Inquiry

Noel Scanlon

Mon 27/12/2021 21:26

To:

Sandra Haigh <Sandra.Haigh@kirklees.gov.uk>;

Cc:

Anthony Gill <AGill@kingschambers.com>;

Phil Champion <Phil.Champion@kirklees.gov.uk>;

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3 attachments

Dear Mrs. Haigh

I hope that you had a Merry Christmas. I had Covid-19.

I write in relation to the attached delegated authority document sent regarding the s.106 UU. Three very obvious things seem to stick out:

- 1) 'Engagement' - the Council appears to have decided that it does not wish to engage with this process any longer and, from a Corporate Director, the Council even if monies were paid would not use the monies to improve the verge
- 2) 'Timing' - the second point is that the Council may (and only may) believe that the draft has to be in on 31st December 2021.
- 3) 'Type of Improvement' - the third is that the Council's Engineers are seemingly refusing to engage if the verge is not made up to a 'by-the-book' pavement standard, which we have heard from Mr. Appleton in the Inquiry would be completely unsuitable for this location.

1) Engagement

It would seem first of all that the Council's lack of willingness seems to stem from the fact that no monies have yet been specified. This is because, as stated in multiple previous correspondence, the idea is to get the Council's engineering input and they can provide a steer on what may or may not be acceptable to the Council in such a location.

The idea is that where there can be agreement to the types of work required, then the amount of monies can be established. It is in part in the attached email correspondence.

Where not, then the applicant will progress accordingly on the basis of quotes and include the appropriate figure in the s.106 UU. Why the Council will not seemingly engage on what it has previously considered a safety issue, is unclear. Why the Council would further dismiss monies that are going to potentially be paid to it anyway for such works, is also unclear.

We would also have an issue with the fact that the Corporate Director has taken steer from an elected Member who is a Chairman of the Committee that did not make the decision as to whether to object to this Section 247 Order (Councillor Lyons is the Chairman of the Huddersfield Area sub-Committee, not the relevant Strategic Planning Committee which resolved to object in this case), but who is also a Member that is (or was at the time of the decision) the subject of a Member Standards complaint by the Applicant, which is now going to the Local Government Ombudsman.

This perhaps feeds into the timing issue.

2) Timing

The Council can still take this to the Strategic Planning Committee. There is seemingly plenty of time before the Inquiry reconvenes. As shown in the attached correspondence following the adjournment of the Inquiry from the SoS-Inspector, the substantial draft UU does not need to be sent until two weeks before the Inquiry reconvenes. There is then a discussion on this at the Inquiry, before final submission following its closure.

3) Type of Improvement

It seems that officers are unwilling to engage the engineering staff as to the inclusion of a new harder, but still permeable surface, as promoted. You will note also in the draft, at the end of the relevant Paragraph 3 of the Second Schedule, allows the Council to take the money and put it towards alternative works. It is open-ended in this respect, so that if the Council (as Highway Authority) wants to do something different to the verge, then it may use the monies to do just that.

Is the Council now stating, having argued previously that this is a safety issue, will not want to receive monies for improvements that it has previously stated to a Committee are (in the Council's view; the Council's 'Officer Body's' view, no less) necessary for safety purposes?

Of course, where the attached delegated authority document is the final position and the Council does not wish to engage any further, then please could you be clear and let us know. We shall on that basis not bother you further. Of course we would have to bring this to the attention of the Inspector and would submit that discussion on this at the re-convened Inquiry on the Council's part must obviously be limited given such a position.

A Unilateral Undertaking is going to be submitted and is going to be discussed at the Inquiry. A final version is going to be submitted within two weeks following the close of the Inquiry.

It is hoped that the Council may have simply been working on the mistaken basis that this work had to be done before 31st December. Where that is the case, we hope that it will take the decision to re-engage.

Whilst we would obviously prefer engagement, because we feel that the Council's present position may in part be based on a misunderstanding, where it does not wish to engage any further, please could you on behalf of the Council be very clear on that. On that basis, we will have no need for further exchanges in this respect.

I shall keep the Applicant's Closing open-ended until noon on Thursday in this particular respect, because we sincerely hope that the Council comes back to the proverbial table. Should I not here from you by then, we shall work on the basis that the Council does not wish to engage further and update in Closing accordingly.

Regards
Noel

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From: Sandra Haigh <Sandra.Haigh@kirklees.gov.uk>
Sent: 23 December 2021 16:06
To: Noel Scanlon
Subject: FW: Closing Submissions - Holmfirth Inquiry

Dear Mr Scanlon

The closing submissions reflect the council's position on the unilateral submitted.

In my email of the 8 December I said that the council would forward comments by later email.

I attach a copy of the delegated decision together with a copy of the comments of Highway Design.

Regards

Sandra Haigh

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