

+++ Excluded from the York Local Plan

*This is a copy of correspondence I have sent to the
Planning Inspectorate and York City Council.*

These are complaints regarding the exclusion of my
evidence from the Inquiry into the York Local Plan.

These complaints are under four headings

- 1. A refusal for a late submission to The York Local Plan Inquiry.**
- 2. Prevented from speaking at the Local Plan Hearing**
- 3. A short conversation with Inspector McCormack**
- 4. The York Central consultation**

1. A refusal for a late submission to The York Local Plan Inquiry.

My late submission was sent on 13th July 2018, where I gave reasons why my submission should be considered (see appendix), but received a reply on the same day from the Programme Officer saying:

“I have already raised the issue with the Inspectors and as you have not put forward any acceptable reason why you could not submit a representation within the six week consultation period and by the deadline then they are not willing to accept your late representation.”

I concerned that the Inspectors had not given my request for a late submission enough consideration, so I later I made DPA request to the Planning Inspectorate - on 26th July 2020. A reply dated the 13th February 2019 said:

“I can confirm that neither Inspector Simon Berkeley nor Inspector Andrew McCormack hold any information on you or about you. As previously advised we have not identified any information held about you on our casework database and electronic recording system.”

After modifications were proposed to the York Local Plan in June 2019, I made a further submission to the Inquiry (see below). I was given a place at the table for the hearings on 10th December 2019. During the lunch break, just before I was due to speak on Matter 1.8 about climate change, I was approached by four people. A note I made that day says:

“In the lunch break, I was approached by a small group of people including The Programme

Organiser, Mike Slater, Head of Planning at York City Council, and one of the Inspectors, Andrew McCormack. The inspector told me I would be unable to speak at the hearing because I had not properly referenced any question set for the hearing.”

I mention concerns about this below, but relevant point is that both Inspector McCormack and Carole Crookes the Programme Organiser confirmed that there was an email exchange, when I was refused a late submission in July 2019. The Programme Officer had previously confirmed this email exchange when I met her earlier in the day. On 31st January 2020 I sent this email to the Programme Officer:

“On 10th December 2019, we spoke during the coffee break of the hearing on the York Local Plan. I noted that you confirmed that there was an email exchange between yourself and the inspectors when the inspectors refused my request to make a late submission to the Inquiry. The refusal was in July 2018. You also confirmed that I was specifically mentioned in the email exchange. I was approached by yourself, Inspector McCormack, and two others during the lunch break. The exchange of emails, that mentioned me, was again confirmed.

“I believe I have the right to see these emails under both Data Protection and Freedom of Information legislation. Please can I have copies of these emails and any other ones that name me that you have sent or received?”

I received no response to “The exchange of emails, that mentioned me, was again confirmed”. However, a response to a later DPA request to the Planning Inspectorate contained a correspondence trail including of communications between me and the Programme Officer. One item reproduced an email sent to me by the Programme Officer on July 13th 2018:

Email to GB “I have already raised the issue with the Inspectors (PO discussed it in a phone call with Simon Berkeley) and as you have not put forward any acceptable reason why you could not submit a representation within the six week consultation period and by the deadline then they not willing to accept your late representation.”

The addition “(PO discussed it in a phone call with Simon Berkeley)” was not part of the email of the 13th July 2018. This is in document “GB Corres Trail 18 Dec.pdf”. 18th December 2019 was six days after I had been told on two separate occasions (both on 10th December 2019) that the refusal to accept a late submission was communicated by emails between the Programme Officer and the Inspectors.

I learned about the “phone call” on March 17th 2020, when I received documents after a DPA request to the Planning Inspectorate. I asked the Planning Inspectorate about this phone call and received an answer on 20th March 2020, which said:

“Thank you for your further email. Inspector Berkeley has confirmed that he holds no note of this telephone discussion.”

A further email on 27th April 2020 from the Planning Inspectorate said:

“ 1. No. However, in case it helps the Inspectorate does not routinely record telephone conversations between Inspectors and Programme Officers and, in response to your previous requests, I have confirmed that there is no recorded note held by the Inspector of that telephone conversation.

"2. I am not required to ask the Inspector for his recollection. Whilst I appreciate that you may disagree with decisions made and communicated in respect of the Local Plan Examination, I have provided you with the recorded information that we hold that is relevant to your requests."

I would like an explanation of these events:

13/07/2018: Reply from the PO saying the Inspectors refused a late entry.

13/02/2019: The Inspectors have no knowledge of me.

12/12/2019: Twice told that the refusal was done by email.

18/12/2019: PO sends correspondence trail claiming refusal was by phone.

20/03/2020: PINS: "Inspector Berkeley has confirmed that he holds no note of this telephone discussion"

27/04/2020: PINS: "I am not required to ask the Inspector for his recollection."

Further, I think the reply from the Programme Officer on 13th July 2018 was imprecise in saying:

"you have not put forward any acceptable reason why you could not submit a representation within the six-week consultation period"

I did put forward reasons (See appendix). A possible answer might have been:

"the reasons you have put forward are not sufficient."

An implication from this reply is that the Inspectors could have allowed my late entry, but I have tried to verify this by emails to the Programme Officer. She has refused to pass on my last question on this to the Inspectors. My question was in an email to the Programme Officer on 17th November 2020:

Dear Mrs Crookes,

Please ask the inspectors for this clarification.

Was the decision to deny my late entry in 2018 due to rather than "the interests of openness, transparency and fairness to all participants of the Examination"

i.e. Was the inspectors' decision mandated by the ACT or did the Inspectors exercise their judgement?

Thanks

Geoff Beacon

This question is relevant to the refusal of my late submission. The Programme Officer responded the same day:

Dear Mr Beacon

The Inspectors have responded to you regarding the issues that you have raised on a number of occasions. I therefore duly return your email and inform you that I have not passed it on to the Inspectors.

Regards

Carole Crookes

There are contradictions in the reasons I have been given regarding the way my late submission was refused. Please let me have an explanation of these. Please assure me that the Inspectors properly considered my reasons for a late submission in 2018.

2. Prevented from speaking at the Local Plan Hearing

After another call for submissions, I made a further submission in July 2019. Correspondence after that included:

From Carole Crookes 8th October 2019

The Inspectors already have your written representation(s) and they carry as much weight as any representation presented orally at the hearings. The Inspectors will invite participants to what they consider to be the relevant hearing sessions that relate to their representation.

From Carole Crookes 18th November 2019:

I can confirm that as a duly made representation as an individual at the proposed modification stage was submitted that you have a right to participate in the hearing.

From Carole Crookes 20th November 2019:

Dear Mr Beacon

I have had a look at your representation and the only link to any session relates to climate change (Matter 1). I have added you to the Matter 1 first session to start at 10.00 am on Tuesday 10th December. Unfortunately, as you have not made any reference in your representation to the housing market area, objectively assessed housing need or the housing requirement then you do not have a right to participate in the sessions dealing with housing or green belt matters (Matters 2 and 3).

For clarification, I have added you to the session dealing with Matter 1. You will be required to leave the table at the end of that session, before the session on Matter 2 commences.

Kind regards

I was surprised by the email of 20th November because a part of the submission I made in July 2019 was "The York Local Plan: Exiling the poor" (attached). This contains:

"This Local Plan will have the effect of exiling the poor by forcing up the cost of housing, a result of keeping the supply limited. The City of York Council Strategic Housing Market Assessment [10] by GL Hearn Limited calculates the Objectively Assessed Need (OAN) which uses demographic analysis to arrive at a starting point for the number of dwellings to be included in the Local Plan. The report states:

'Government's Planning Practice Guidance sets out how the objectively assessed

need for housing should be defined. It sets out that the starting point should be demographic projections, with appropriate assumptions regarding household formation rates. The need may then need to be adjusted to support economic growth or improve affordability. The SHMA follows this approach to identifying housing need.”

However, I did not contest this point at the time. Later (28th October 2019) participants were asked to provide a note for the hearing which I subsequently provided. This concentrated on Climate Change.

The way in which I was informed that I could not speak at the Hearing of the Local Plan was unusual.

As mentioned above, a note I made that day says:

“In the lunch break, I was approached by a small group of people including The Programme Organiser, Mike Slater, Head of Planning at York City Council, and one of the Inspectors, Andrew McCormack. The inspector told me I would be unable to speak at the hearing because I had not properly referenced any question set for the hearing.”

The lunch break came just before the matter on which I was due to speak on Matter 1.8 on the agenda. Under the heading “Under Other Legal Requirements”, the agenda for the day said:

1.8 Does the plan include policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaption to climate change?

The Inspectors have subsequently given me an explanation for my exclusion from the hearing. They say I was not addressing the questions that they had set.

3. A short conversation with Inspector McCormack

When, in the lunch break on the first day of the hearings, Inspector McCormack and others approached me, part of the conversation we had was about my claim that the York Local Plan was illegal because it violated the National Planning Policy Framework on grounds of climate change. I remember Inspector McCormack saying that all evidence must be submitted legally.

I did not make a note of this at the time – I was more interested in the what he had to say about the emails on 13th July 2018.

However, I am sure that my recollection is correct, but the point I wish to make is that Inspector McCormack’s view (as I remember it) is likely to be incorrect and could be tested in the courts. If the Inspectors know that the York Local Plan is contrary to the NPPF, they must at least comment on it, and likely reject it. They must know my argument from the correspondence trails they have asked for and received from the Programme Officer, and from the conversation I had with Inspector McCormack.

Paragraph 105 of the Supreme Court’s ruling on a third runway at Heathrow Airport makes it clear that the NPPF is properly Government Policy:

105. In our view the phrase is looking to carefully formulated written statements of policy such as one might find in an NPS, or in statements of national planning policy (such as the

National Planning Policy Framework), or in government papers such as the Aviation Policy Framework.

Can I be assured that the Inspectors are not planning to disregard the conflict between the climate requirements of the NPPF and the York Local Plan, because that is what can be implied from what Inspector McCormack said in our conversation?

The NPPF does represent Government policy.

4. The consultation on York Central

It was a mistake for the Planning Inspectorate to have accepted that the consultation on the development at York Central was not part of the Local Plan Inquiry. The York Central Consultation happened during the period of the Local Plan Inquiry.

This development is more important to the development of York than any of the developments affected by the York Local Plan. The Planning Inspectorate should have asked the Secretary of State to incorporate York Central in the York Local Plan Inquiry.

++ The Appendix to my late submission of 13th July 2018

This is a late submission. The delay partly caused by my workload and incompetence, but I did have a scheduled meeting with planners at York City Council. This was abruptly cancelled at a time when a submission would have been within time.

In my view, the most compelling reason for accepting this evidence is my track record. My evidence to the York Inner Ring Road Inquiry in 1972 was described by the inspector as “the only workable alternative”. Indeed, most of my proposals have since been implemented and it can be plausibly argued that this evidence was key to stopping the scheme.

I have commented on planning in York and appeared at other public inquiries. I did put in a submission to an earlier stage in this local plan and got a response from York Council in 2016 which included:

I will need to review your submission to the Local Plan before advising you on whether it would be better submitted as part of the full, formal Local Plan consultation early in 2017. In the meantime we will log it as part of the current event.

Geoff Beacon
20th July 2023