The Planning Inspectorate

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Mrs D Aylmore
Adur District Council
Planning & Development Services
Department
Civic Centre
Ham Road
Shoreham By Sea
West Sussex
BN4 6PR

Your Ref: ADC/0486/10

Our Ref: APP/Y3805/A/11/2150556/NWF

Date: 17 June 2011

Dear Mrs Aylmore

Town and Country Planning Act 1990
Appeal by Mr N Minsky
Site at 42 Crabtree Lane, Lancing, BN15 9PQ

I enclose for your information a copy of the appellant's final comments on the above appeal. Normally, no further comments, from any party, will now be taken into consideration.

Yours sincerely

[redacted]

Simon Rogerson

217L(BPR)

You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button

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ARBORTECH (Consultancy)
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Planning Inspectorate.
Temple Quay House,
2 The Square,
Bristol,
BS1 6PN.

26 May 2011.

Our ref : Mins/ATCorr2/26511

Re : Planning Appeal against refusal.
Proposed Development at 42-44 Crabtree Lane, Lancing. BN15 9PQ

Planning Inspectorate Reference : APP/Y3805/A/11/2150556/NWF

Local Planning Authority Reference : ADC/0486/10

Comments on Written Representations Adur District Council 23 May 2011
Addressed in chronological order.

It is considered that the Councils comments in the following instances have the potential to disadvantage our client during consideration of the case of this appeal.

Section 2.1 is misleading.
Background : Emergency TPO placed 18th October 2010
Reason :
It is not possible that the first application (Ref : ADC/0157/10 withdrawn on 6th July 2010) was withdrawn '*after concerns were raised by Officers regarding the 'TPO' trees'.*
The 4 trees were not TPO'd at this time.

Section 4.6. is misleading as the Council appear to have incorrectly interpreted information supplied within the original arboricultural report at page 15 (ADC ref Appendix 12).
Explanation :
The plan at page 15 does not indicate (as the Council interpret) the extent of the canopy of the two remaining trees T1 and T4.

Page 15 indicates the 'below ground constraints' in accordance with BS 5837:2005, represented by the tree Root Protection Areas and as suggested should be read in conjunction with Section 4.1 of the report 'Tree Root Protection Areas'.

Therefore the Councils following statement is incorrect '*no distance whatsoever is retained between the existing canopy of the trees (T1 and T4) and the proposed dwelling'*.

Section 4.7 and 4.8 are misleading, again this appears to be due to incorrect interpretation at Section 4.6.
Explanation :
The statement at 4.7 is rather difficult to understand, but appears to suggest that T2 would be retained during construction of the dwelling (and due to misinterpretation see 4.6) T1 and T4 also "*would clearly have interference with the erection of the walls and roof of the dwelling, and the associated scaffolding"*.

It is proposed that T2 be removed to make way for the new dwelling.
Therefore there will be clear separation between the trees and the building given that the trees to be retained have crown extension towards the building of only; 2.5m to East of T1 (in upper crown) and 1m to East of T4, as stated in the original arboricultural report.

In consideration of the above, Section 4.8 also incorrectly suggests that "*the trees are already at a stage that their branches would directly impact the amount of light"*.

Section 4.9
Explanation and Comments :
See comments regarding Section 2.1. In addition, as the trees were not TPO'd at this time, the 'opportunity' to make an application for TPO works was not relevant.

There was however an opportunity to fell the trees, in the absence of statutory tree protection from July to October 2010. The applicant did not consider this course of action but as stated, sought pre-application advice prior to the second (recent) application and took measures to follow current best practice procedure regarding the trees and planning.

Section 4.10

Explanation :

Contrary to the statement that the applicant did not follow the procedure for dealing with TPO's; The applicants preference was that the TPO trees and the development proposal be considered simultaneously by the Council during the planning process. 'Under exemptions in the TPO'; "*The LPAs consent is not required for cutting down or carrying out work on trees if required to implement a full planning permission. For example, the TPO is overridden if a tree has to be removed to make way for a new building for which full planning permission has been granted. In dealing with applications for planning permission LPAs consider a range of factors, including the potential loss of protected trees. Where, on balance, they decide to grant full planning permission protected trees may be cut down or cut back without any need to apply under the TPO, but only if such work is required to implement the planning permission*" (Section 6.14 'Tree Preservation Orders : A Guide to the Law and Good Practice' ODPM 2000).

Yours Sincerely

[redacted]

Mrs Jacqueline Hayes

References/Bibliography :

- British Standard 5837 : 2005 *'Trees in relation to construction - Recommendations'* .
- 'Tree Preservation Orders : A Guide to the Law and Good Practice' ODPM 2000).