

Local Government OMBUDSMAN

17 May 2010

Mr Tony Dixon & Mr Harold Hall
4 Barons Close
Westergate
Chichester
West Sussex
PO20 3YS

Our ref: 10 000 389/PBM
Please quote our reference when contacting us and,
if using email, please put the reference number in the email subject header

**If telephoning contact: Pat Moriarty on 020 7217 4641
or, if using e-mail, send to: p.moriarty@lgo.org.uk**

Dear Mr Dixon & Mr Hall

Complaint against Arun District Council

Introduction

I write to confirm that I am considering your complaint against Arun District Council on behalf of the Local Government Ombudsman. I have spoken to you both by telephone and have taken account of what you had to say in coming to my provisional view. I have spoken to an officer at the Council to get further information about the Local Development Framework (LDF) process and the stage it has reached.

I have carefully considered all the information you have provided, and this letter sets out my current view on your complaint based on the information I have seen so far. You now have an opportunity to have your say, particularly if you disagree with anything in my letter.

The purpose of the letter is to:

- set out my understanding of your complaint;
- explain how the law applies to your complaint;
- review the key facts in your case;
- provide my analysis of your case; and
- set out my provisional conclusion.

Before I make my final decision I want to make sure that I have taken your views into account. Please read through the next section of this letter and:

- comment on the evidence and whether I have misunderstood anything;
- let me know if there are any relevant new facts.

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Tony Redmond
Local Government Ombudsman
Peter MacMahon
Deputy Ombudsman

YOUR COMPLAINT

Summary statement of complaint

My current understanding of your complaint is that you believe the Council is at fault because of its actions in connection with the preparation of its Local Development Framework (LDF). You make various allegations about campaigns in which the Council and Councillors have engaged, and the open opposition to development at Ford.

Relevant law and key facts

The 1974 Local Government Act (as amended) governs everything we do. The Act says that the Ombudsman may investigate complaints of maladministration which has led to injustice to a complainant, or of service failure.

By law, the Ombudsman may not consider complaints which affect all or most of the inhabitants of a council's area (Section 26(7)).

Analysis

You told me that your complaint relates to the way the Council has dealt with the various proposals which have been brought forward for consideration for inclusion in its LDF. You say that the Council itself has campaigned against Option 2 – development at Ford - and various Councillors have opposed the plans, demonstrating that they have already made up their minds against this option. You say that the public consultation which still has to be carried out will be a sham, because the outcome is predetermined, and that this is therefore a waste of the taxpayers' money.

But I understand that the consideration of the LDF is still at a very early stage. No decisions have yet been made and the Council has told me that it is hoping to have a draft plan in place by November 2010 which will then be put to Members for their approval. Once the draft has been approved, it is hoped that the plan will be put out for public consultation in the spring of 2011.

The public will have the right to make representations at this stage and these will be analysed by the Council before the draft is amended, if it is thought necessary, and it will then go back to Members for their approval.

It is hoped that a formal pre-submission will be sent to the Secretary of State in late 2011, or possibly early 2012. An Inspector will subsequently be appointed for an examination in public (EIP) of the plan, so that a decision can be made on whether the plan is 'sound'. It would be a matter for the Inspector to decide if you should be called to give evidence at the EIP.

So it seems to me that no decision has yet been made by the Council on its LDF and indeed it is not likely that any final decision will be made before 2014. It is my view that no injustice has yet arisen to any members of the public, and injustice may well not arise until planning permissions have been granted under the finally adopted LDF – which may not be until 2017/8.

I have explained to you that the role of the Ombudsman is to consider complaints of maladministration by a council which has led to injustice to a complainant. As no decision has yet been made on the adoption of the plan, it is my view that your complaint is premature and not one we should pursue.

With regard to your complaint that the decision on the LDF has been pre-determined and so the continuation of the process by the Council is a waste of money, I have also mentioned above that the Local Government Act 1974 means that the Ombudsman cannot consider a complaint which affects all or most of the inhabitants of a council's area. If you believe that Council is wasting money, it is a matter you should put before the District Auditor.

Provisional conclusion

My provisional view that we should not pursue your complaint further because it does not seem to me that, even if the Council was at fault as you allege, any injustice has yet. My provisional view about your complaint that the process is a waste of money is that it is outside the jurisdiction of the Ombudsman because it affects all or most of the inhabitants of the Council's area.

Next steps

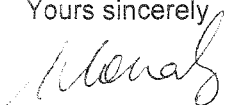
Please respond to this letter by 7 June 2010 but let me know if you need longer than this. It is important that you respond at this stage if you disagree with what I have said. The final decision will only be reviewed if, within three months of the decision date, you find new evidence that is directly relevant and could lead to a different outcome.

The next stages will be for me to:

- review your complaint based on your response to this letter;
- decide whether the relevant facts are now clear or whether there is a need to consider the issues further;
- decide if the conclusion is fair for your case and in line with our guidelines; and
- issue a final decision.

My final decision will be issued to you and to Transport for London at the same time. I will also send a copy of my letters to the Transport for London. Your file will then be closed and the case finished.

Yours sincerely



Patrick Moriarty
Investigator