

## RE: Neighbourhood planning - legal issues

From: Jonathan.Bore@rbkc.gov.uk

Sent: 06 February 2015 12:14:56

To: henry\_peterson@msn.com

Cc: Cllr.Coleridge@rbkc.gov.uk; Cllr.Thompson@rbkc.gov.uk;

Jonathan.Wade@rbkc.gov.uk;

Joanna.Hammond@rbkc.gov.uk; amandaframe@bauencorp.com;

michaelbach@madasafish.com; Derek.Taylor@rbkc.gov.uk;

Graham.Stallwood@rbkc.gov.uk; Erin.Lawn@rbkc.gov.uk

Dear Henry

You have written a great deal on the issue of Latimer Road and Nursery Lane. So that we do not waste any more time on these matters, please let me be absolutely clear.

1. The Core Strategy policy towards the Enterprise Zones is a strategic policy and we will not allow it to be changed by the Neighbourhood Plan. While the NP is in conflict with that policy, which is in the case of the proposed Latimer Road designation, it will be in conflict with an important objective of the development plan and will not be in general conformity with the plan.

2. I have read the Tattenhall judgement and it is not analogous to our situation. In that case the development plan was emerging and there was no conflict with an adopted policy.

3. Whether I seek legal advice is my decision and such advice remains confidential.

4. My strong advice is that to avoid a lot of wasted time and unnecessary damage to good relations with the Council you need to withdraw this element of the draft neighbourhood plan and instead engage with us on the review of business policy.

5. The issue of Nursery Lane relates to the balance of planning considerations in the public interest. The provision of housing is a strategic issue, a strategic policy in the development plan, and a strategic priority for national planning policy as set out in the NPPF. In comparison, the site is not an existing open space and has little public benefit. It is seen from some private rear windows but contributes little if anything to the character, appearance or visual amenity of the area. Even if the site were to be designated open space by the NP, the community's need for housing would be a material consideration of considerable weight when considering any subsequent planning application for housing.

6. We would expect any housing scheme for the site to be low rise, relatively low density and retain trees and greenery, and will be making these points in our pre-application advice to developers, but I will be recommending strongly that the Council resist the emerging NP designation and will defend that point at the examination too.

7. Please be in no doubt that we will stand by these points at the examination. We still hope that you will accept our position and remove these designations from the emerging NP, otherwise we will be in serious conflict at the examination, many would say unnecessarily, when it would be much better to work together.

I hope you will see this email as helpful, in the sense that you can now have no doubt where we stand.

Best wishes  
Jonathan

Jonathan Bore | Executive Director | Planning and Borough Development  
The Royal Borough of Kensington and Chelsea  
Kensington Town Hall, London W8 7NX | 020 7361 2944