
Sycamore House, Town Hall Complex, Forest Road, Walthamstow, London, E17 4JF

Gail Penfold
Chair
Walthamstow Stadium Area Residents/
Community Association

Ask for: Nick Powell
Our Ref: GDS/WAD/S1CR
Your Ref:
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Direct line: 020 8496 5591
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Date: 04 September 2014

BY EMAIL to stow.residents@yahoo.com

Dear Ms Penfold

Re: Your complaint – Handling of Garage Area Wadham Avenue

I am writing to advise you that I have now had the opportunity to consider your complaint received by the Council on 08 August 2014. I am now able to comment on my findings as follows.

Your complaint

You submitted a list of complaints relation to the Council's decision to demolish the 18 council owned garages adjacent to 58-68 Wadham Avenue E17, including: failing to consult with the Walthamstow Stadium Area Residents/Community Association (the Stow Association); failure to respond to local residents; failure to deal with local residents in a sensitive and respectful manner; failure to provide Stow Association with information; failure to make an insurance claim on behalf of local residents; unprofessional behaviour of a member of staff; supplying false information; failure to explore all avenues; the decision making process; and failure to act on behalf of residents.

Key events

Council officers and Ascham Homes are delivering a Garage Development Strategy approved by the Cabinet in November 2011. The Cabinet decision was to reduce the number of garages owned and managed by the Council from over 2000 in 159 identified garage courts to fewer than 250.

The garages are no longer fit for purpose as they are not wide enough for most modern cars, they were generally built to a low standard as building regulations do not apply to garages, many are subject to vandalism and anti-social behaviour, and most



are in poor state of repair as the Council does not have the resources to repair, maintain and manage them.

Local authorities do not have a statutory duty to provide garages, so with the financial challenges facing local authorities the Council can no longer justify spending money on providing, maintaining and managing garages.

The expected outcome of the Garage Development Strategy is to provide as many new homes on former garage sites as is practically possible to help meet local housing needs, and to replace garages with cheaper to maintain surface parking or landscaped amenity space where the sites will not be able to accommodate new homes.

Wadham Avenue Garages

There are two blocks of 6 and 12 garages next to Council owned flats at 58-68 Wadham Avenue, at the end of a cul-de-sac. These would have been built to provide parking for the residents of the Council owned homes at 57-86 Wadham Avenue. This site is identified in the Garage Development Strategy for demolition to provide surface parking or amenity space.

In January 2014 Council officers wrote to neighbours and users of a number of garage sites earmarked for demolition seeking their views on the future use of the garage sites. Wadham Avenue residents and users of the garages were sent a questionnaire on 17 January 2014 with a response deadline of 28 February 2014. Council officers will be working up more detailed proposals for the future of these sites based on local preference and the most feasible and viable future use of these sites in consultation with local residents.

In June 2014 Council officers were informed by way of a structural engineer's report from Ascham Homes that the block of 12 garages was structurally unsafe due to damage caused by vehicles using the neighbouring sports centre car park. Council officers wrote to the residents of Wadham Avenue and garage users on 10 July 2014 informing them that the garages were to be demolished urgently, before a decision had been made on the long term future use of the site, as the garages were now a health and safety hazard.

Ascham Homes then issued the required seven days' Notice to Quit on the ten garages that were let. Unfortunately the covering letter with the notice informed garage users that the reason for demolition was for redevelopment rather than the health and safety reason, as a template letter was not altered. However, as is agreed practice, garage users served with notice to quit were offered the opportunity to rent other garages elsewhere should they want to continue renting a council garage.

The Council officers and Ascham Homes have received a number of complaints in response to the Notices to Quit.

My findings

1. Failure to consult with Walthamstow Stadium Area Residents/Community Association & consultation status

Council officers, in delivering the Garage Development Strategy approved by Cabinet in November 2011, have been consulting garage users and immediate neighbours on their preferences for the future use of the garage sites identified in the strategy.

The Council has an obligation to keep secure tenants of Council housing informed of housing management proposals that are likely to significantly affect the tenants, and make these available to members of the public on request, under Section 105 of the Housing Act 1985.

In January 2014 all Wadham Avenue residents and garages users were sent a questionnaire seeking their views and preferences for the future use of the garage site. There is no obligation requiring the Council to include or inform the Walthamstow Stadium Area Residents/Community Association residents group in this exercise. However had any of the residents and garage users requested that the residents association be involved officers would have done so, as was done when this was requested by a Wadham Avenue resident on 6 August 2014.

The decision to demolish the Wadham Avenue garages was hastened by a structural engineer's report dated 13 June 2014 informing officers that the 12 garages adjoining the Sports Centre car park were structurally unsafe, a health and safety hazard, and not economically viable to repair as demolition and rebuild would be cheaper.

The Council does not have a duty to consult prior to undertaking health and safety works. Nevertheless Wadham Avenue residents and garages users were informed in writing on 10 July 2014 of the urgent need to demolish the garages prior to a decision being made about the future use of the site, before Notices to Quit were issued to garage users.

Neighbours and garage users will have up to three opportunities to engage with the Council in determining the future use of garage sites. The first is when the Council consults neighbours on their preference for future use of the garage site if there are options – this is the letter and questionnaire sent to Wadham Avenue residents and garage users in January 2014. The next will be when there are worked up proposals for the future use of the site, effectively the Council will consult local residents prior to submitting a planning application. This consultation has been described as 'informal' in correspondence with residents and garages users, which I agree could be misleading. The third opportunity will be when a planning application is submitted and the Council, as the local planning authority, undertakes statutory consultation on the planning application.

There is no dedicated Council web page for the Garage Development Strategy. This is something we would like to set up but have not yet been able to so details of individual sites are not available on-line, unless and until they are the subject of a planning application, then they will appear on the Council's planning portal. It will be a few months yet before detailed proposals for the future use of the Wadham Avenue site have been worked up and residents are consulted on this, before a planning application is submitted for the site.

The Council does not yet have a date for demolition as garage users are being given extra time to move out. As soon as a contractor is instructed residents of Wadham Avenue and any remaining garage users will be informed of demolition dates.

2. Failure to fully respond to local residents following consultation

The Council has and will continue to consult with local residents and garage users on the future use of the garage sites. This was reaffirmed in the letter to residents and garage users dated 10 July 2014, also informing them of the urgent need to demolish the 12 garages.

Council officers will be working up proposal for the long term future use of all the garages sites in the strategy based on what the sites can accommodate and local residents' preferences, and will seek residents' views on detailed proposals as soon as they are available, possibly later this year. The Council as a land owner does not have a duty to do this – the obligation is to consult with council secure tenants - but believes that it is necessary and good practice and has been doing so on a site by site basis.

The Council responded to an enquiry from Stella Creasy MP's office on behalf of residents, copy attached; and a resident, who's letter dated 24 July was received on 11 August, has also had a response. I have not fully investigated why this resident did not receive detailed responses to letters to Ascham Homes going back a number of years. This will not make a material contribution to the decision on the future use of this garage site as officers are delivering the Garage Development Strategy as approved by Cabinet in November 2011.

Without specific details as to the local residents 'outstanding matters' it is difficult to respond to this. I understand that some garage users have complained about lack of response from Ascham Homes in relation to requests for alternative garages and we have asked Ascham Homes to rectify this.

Again, without more information on 'actions that can be taken by our Association' it is not possible to provide a detailed response to this. On receipt of your complaint Sonia Gibson was instructed by her manager not to enter into any further correspondence with you as this complaint response should address your additional queries.

The Council does not have a duty or responsibility to consult with the Stow Association on this matter, but has responded reasonably to previous requests for information.

3. Failure to deal with residents in a sensitive and respectful manner

The covering letters sent out with the notice to quit erroneously informed garage users the reason for issuing the notice to quit was to redevelop the site. This is a letter used for such circumstances and should not have been sent out with the notices for the Wadham Avenue garages, Ascham Homes were informed that the reason for demolition is that the row of 12 garages is structurally unsound and a health and safety hazard. The row of six are in a poor state of repair, the Council does not plan to repair them, so it is cost effective to demolish these at the same time.

The licence to occupy the garages can be terminated by the Council by giving seven days' notice. The Council pre-warned garage users by letter dated 10 July that they would be issued with Notices to Quit and that, should they wish to continue renting a garage, they would be offered an alternative elsewhere in the Council's garage portfolio. Garage users have and will be given ample time to vacate the garages, the Council has not enforced the seven day notice.

As the 12 garage court is a health and safety hazard the delay to demolishing is increasing the risk to local residents and members of the public, as well as the risk of action being taken against the Council as owner of the garages.

The Council does not have a statutory duty to provide garages. The Council has acted reasonably in offering alternative garages to users served with a notice to quit and has given garage users ample time to move all belongings out.

The Council will not be compensating garage users for loss of use of the garages at Wadham Avenue, and I understand Ascham Homes have sent written apologies to a number of garage users for the mistakes made.

The Council has to abide by Health and Safety legislation. There is no statutory consultation or appeal process against a decision taken for health and safety reasons.

4. Failure to provide full details to Walthamstow Stadium Area Residents/Community Association

We believe the officer's response to you was adequate, though for the avoidance of doubt here are the direct answers to your questions:

- 1. Give the full reasons behind the decision as you explained on the telephone.*

Council officers are delivering a Garage Development Strategy approved by the Council's Cabinet in November 2011. The garages at Wadham Avenue have been identified in this strategy for demolition with the site to then be used for surface parking or amenity space. As a result when the Council was informed that garages 7-18 were structurally unsafe and uneconomic to repair, the decision was taken by the Development and Investment Manager, in consultation with other Council and Ascham Homes staff, to demolish all the garages as any repairs would be a waste of money.

As the structural engineer's report stated that it would be cheaper to demolish and rebuild than to repair the garages, the Council did not ask for a quote for repairs. Ten of the 18 garages at Wadham Avenue were let; I am informed that two of these were actually being used to park cars in regular use.

Demolition of the garages, particularly as the floor slabs will be left for use as parking until a decision is taken on the future use of the site, will not result in more on street parking; it will actually provide more parking spaces. As the garages were built as part of the Council homes at 57 to 86 Wadham Avenue the Council could, as a land owner, restrict use of this parking facility to residents of the same. The Council has no obligation to provide parking for residents of Wadham Avenue other than as required by planning and highways regulations.

2. Confirm that the area has not been designated for housing in the long term

In line with the Garage Development Strategy, the Council will be looking at all redevelopment options for the site. As part of this process we will continue to consult with residents and immediate neighbours as we work up proposals for the future use of the site with the help of architects and in consultation with the local planning authority.

The Council, like any other land owner, will require planning permission for any proposed redevelopment of the site. Any application the Council submits for planning permission for the future use of the site will have to adhere with national, regional and local planning policies. You have previously been informed that we will ask the Local Planning Authority to include the Stow Association in the list of consultees for any planning application relating to this site.

3. Confirm that when the six garages that need to be demolished have been removed that the area will be used for parking

After demolition the site will be left for use for parking on a temporary basis until a decision is taken by the Council as to the best future use of the site.

4. Give a full explanation as to why it is felt the second block of garages needs to be demolished

See my responses above - the garages are of a poor standard, are not in a good state of repair, are not fit for purpose, and the Council does not have a duty to provide garages. It is therefore not the best use of scarce Council resources to provide, maintain and manage garages.

5. Failure to confirm and convey in writing full details as given in the telephone conversation by Sonia Gibson on 7 August 2014 when she contacted the Association Chair Gail Penfold by telephone.

The details provided to you by the officer were on the basis that the telephone conversation was explaining the content of emails previously sent.

The officer informed you that the indicated future use of the garage site was parking, as set out in the garage development strategy. However a review is currently being undertaken of all garages sites so a final decision as to the long term future use of the site has not yet been made.

Parking is one option under consideration as set out in the questionnaire sent to residents in January 2014. The garages are being demolished to slab (floors) which will be left so the site can be used for parking until a decision on the long term future use of the garage site is made.

6. Failure to fully investigate and take necessary action in respect of any legitimate insurance claim that could be made, not only on behalf of the landowner but also on behalf of the tenants and local residents.

The garages are not insured so the Council cannot claim for repairs or restitution.

Officers took advice about a claim against the Sports Centre, and this advice was that a claim was unlikely to succeed as there was no evidence or record of which vehicles caused the damage, so the damage could not be directly attributable to the Sports Centre.

In addition officers took the decision not to seek restitution from the Sports Centre as the garages were already earmarked for demolition as part of the Garage Development Strategy.

For the reasons above, it is not necessary, prudent nor in the Council's or local residents' best interests to pursue a claim for restitution against the Sports Centre managers or owners.

Officers made contact with the Sports Centre to discuss action to deal with the immediate problem of the unsafe garages and are pleased that the Sports Centre has agreed to install bollards to prevent future vehicular damage to the boundary of the Council's site. The garage wall will be replaced with a fence.

7. Unprofessional behaviour by member of staff Sonia Gibson and failure to carry out full duties as required of her post as a council officer

The 12 garages are a health and safety hazard and the Council would be legally liable if anyone, including trespassers, is injured as a result of the condition of the garages. Urgent action needs to be taken to resolve this, and the officer has been tasked with achieving this. Demolition is the most efficient and effective solution to this problem.

Council officers will provide as much detail as they can in response to requests for information from local residents and members of the public. The officer you are complaining about was actually concerned about how much information was in the public domain on this matter, the status of the Stow Association in terms of the Association's involvement in this matter, and responded as directed by her manager.

I have previously explained the reason the Council will not be pursuing a claim against the Sports Centre. Any relationship between the land owner and the Council and/or Ascham Homes in relation to other sites is not relevant to this matter.

Council officers can be and are required to keep personal data and commercially sensitive information confidential. The officer was carrying out her duties as instructed by her manager.

8. Supplying false information to taxpayers and residents

The Council officer did not intend to deliberately mislead residents. The reason for the demolition of the 12 garages was because they were structurally unsafe. The other 6 garages are also in a poor state of repair, and earmarked for demolition as part of the Garage Development Strategy. The decision was taken to demolish all of 18 garages as this would be the most cost effective solution.

The Council issued instructions to Ascham Homes to obtain vacant possession of all 18 garages so they could be demolished. Therefore the fact that Ascham officers informed residents that the 6 garages were to remain was an error on their part which they have been asked to rectify by way of letters to those affected apologising for this error.

As you are aware, the nature of the ownership of the Sports Centre land, including restrictive covenants, prevents disposal of any part of the Sports Centre car park for redevelopment. The Council therefore cannot buy any of this land for development and is not negotiating the purchase of land from the Sports Centre.

9. Failure to explore all avenues opens

This has already been addressed in some detail above as to the reasons why the Council will not be pursuing a claim for the cost of or repairing or replacing the garages, or repairing or replacing the garages.

10. Decision making process

The decision to redevelop this garage site had already been taken as part of the Garage Development Strategy as approved by the Council's Cabinet in November 2011.

The immediate urgency to demolish the garages is because most are now structurally unsafe and have been identified by a structural engineer as a health and safety hazard, and the Council has a statutory duty to act on this advice.

A decision has not been taken on the long term future of the site and residents were informed of this in the letter to them dated 10 July 2014. The Council will continue to consult with local residents on the long term future use of the site.

11. Failure to act on behalf of tenants at the correct time

Council officers were not aware until recently of the written requests sent to Ascham Homes a number of years ago. I have asked Ascham to provide an explanation as to why detailed written responses were not sent to residents.

There is evidence that repairs have been undertaken in the past, however I am not able to verify whether this has been in direct response to residents' request to Ascham Homes.

It is my opinion that even if more extensive repairs had been undertaken in the past, the eventual outcome would still be that these garages would have to be demolished as they, like most other garages owned by the Council, are of poor quality construction and are no longer fit for purpose and not economical to retain, repair, maintain and manage.

Conclusion and decision

The Council, by way of the Garage Development Strategy, had already earmarked the 18 garages at Wadham Avenue for demolition because of the poor state of repair of the garages. The Council as a land owner has started consulting local residents on their preferences for future use of the site, and this process is not yet concluded.

The decision to demolish the garages prior to a decision being made on the long term future use of the site was necessitated by the fact that the garages are now in such a poor state of repair they are a health and safety hazard.

A structural engineer informed the Council it would be cheaper to demolish and rebuild than it would be to repair the garages. Immediate demolition is therefore the most reasonable and cost effective solution to dealing with the health and safety hazard. There is therefore no need to explore other options and there is no duty to consult on a health and safety decision such as this.

There is no need for a formal investigation into the decision to demolish the garages as the Council and its officers have not breached any statutory duty in reaching this decision. In fact the Council is at increasing risk of breaching its health and safety duties the longer these hazardous garages remain.

I accept that communication with local residents, garage users and the Stow Association could and should have been handled better and as a result the Council will carry out a review of its communications plan and procedures in relation to the Garage Development Strategy.

Council officers will continue to deliver the Garage Development Strategy as approved by Cabinet. While the actions taken in the delivery of this strategy will remove a facility some local residents value and would like to retain, what will replace the garages will improve the local area and be of greater benefit to the wider community.

The demolition of the garages will take place as soon as we are able to obtain vacant possession. The garage floor slabs will be left so the site can be used for parking until a decision is taken as to the long term future use of the site. Local residents will continue to be consulted about the long term future use of the site, before and as part of the statutory consultation required if and when a planning application is submitted.

Your right to complaint to the Council's Chief Executive

If you are dissatisfied with my response, you can request a further investigation by the Council's Chief Executive or his appointed representative. If you wish to pursue this, please contact the Council's Complaints Team within 28 calendar days from the date of this letter.

You can contact the Complaints Team using any of the following options:

- a) By writing to The Complaints Manager at Waltham Forest Town Hall, Forest Road, Walthamstow E17 4JF;
- b) By telephoning Waltham Forest Direct on 020 8496 3000, clearly stating that you wish to make a Stage 2 complaint; or
- c) By sending an e-mail to: complaints@walthamforest.gov.uk. If you choose this option, please ensure that your e-mail is clearly marked "Stage 2 complaint".

If you write or e-mail, please state the reasons why you are dissatisfied with the Stage 1 response and why you wish to escalate your complaint.

Yours sincerely



Nick Powell CIHM
Head of Strategic Housing & Investment

CC: Stella Creasy MP
Chapel End Ward Councillors
Ascham Homes