

Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>**Re: 2019/0508/5 The Hexagon - appeal 3247384**

1 message

Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>

29 April 2020 at 11:08

To: "Obushenkova, Olga" <Olga.Obushenkova@camden.gov.uk>Cc: "Bushell, Alex" <alex.bushell@camden.gov.uk>, richard.limbrick@camden.gov.uk

Dear Olga,

Thank you for your email. I have discussed this matter with my client and we do not have anything further to add to my previous email although we will, of course, look into any delay in paying your bill.

We look forward to hearing from you in regard to our suggested way forward once you have received advice from counsel.

Kind regards

Sarah

On Tue, 28 Apr 2020 at 11:05, Obushenkova, Olga <Olga.Obushenkova@camden.gov.uk> wrote:

Dear Sarah

As stated previously, providing the legal advice your client has received will allow the parties to have a more informed discussion and it is a standard practice to allow another party to comment on legal advice. The point relating to the CMP being secured via a s106 agreement is a stand-alone point and your client should be able to provide the part of the advice related to that point only or at least a summary of the advice. Refusing to provide the relevant part of the advice or summary of the same would be obstructive and unreasonable and may go to costs on appeal.

In terms of costs, please note that the Council has incurred significant costs in drafting and negotiating the s106 agreement, including all the correspondence with yourself and your client after the issue of engrossments on 12 September 2019 which has resulted in significantly longer time being spent on this matter which should have been a straight forward matter involving one obligation agreement only.

Please note that contrary to what you have stated below, the Council fees have NOT been paid. I refer to the fees set out in my original email of 14 August 2019. Your client has undertaken to pay these fees but has not done so. If your client believes that they have paid those fees (or any other fees they believe to have paid), they need to provide evidence of such payment as no such evidence has been provided.

I also note that the estimated costs quoted in my attached email of 14 August 2019 related to the original negotiations only and as after those negotiations have been completed on 12 September 2019 (please see the attached email chain) and the Council issued the engrossments as per your client's request, the Council then had to incur further costs throughout all the correspondence with you and work carried out by officers in providing responses in relation to your comments on the NPPG. Additionally, the Council has incurred further costs in relation to the appeal, including instructing of counsel. Accordingly, it is incorrect to state that the Council has not incurred any costs or that those costs have been paid by your client.

Regards

--
Olga Obushenkova
Lawyer

Telephone: 020 7974 4125



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From: Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>

Sent: 22 April 2020 16:28

To: Obushenkova, Olga <Olga.Obushenkova@camden.gov.uk>; Whittredge, Emily <Emily.Whittredge@camden.gov.uk>

Subject: Re: 2019/0508/5 The Hexagon - appeal 3247384

[EXTERNAL EMAIL] Beware – This email originated outside Camden Council and may be malicious. Please take extra care with any links, attachments, requests to take action or for you to verify your password etc. Please note there have been reports of emails purporting to be about Covid 19 being used as cover for scams so extra vigilance is required.

Dear Olga,

Thank you for your email which I have discussed with my client.

We have suggested a way forward, should LB Camden be willing to accept a condition to secure a Construction Management Plan, whereby we would resubmit the application and withdraw the appeal once the application has been approved.

Our submitted Statement of Case reflects the legal advice obtained and makes our case very clear. I would suggest your instructed Counsel reviews this document. Our legal advice was provided in the context of other advice from Counsel which is confidential and we are unable to share this.

Asking for a further note from Counsel would result in our client incurring additional costs. Our client has already incurred considerable costs to date on bringing this appeal forward. As the appeal is yet to be registered, the Council has yet to incur any costs in this regard, and my client has paid the Council's legal fees to date. Agreeing to our proposed strategy would, as you say, save considerable costs for the Council going forward. The cost savings for our client would be minimal.

We look forward to hearing from you.

Kind regards

Sarah

On Wed, 22 Apr 2020 at 15:45, Obushenkova, Olga <Olga.Obushenkova@camden.gov.uk> wrote:

Dear Sarah

Please could you provide the legal advice you have mentioned your client has received (as referred to in my email below) for our counsel's review as this will assist the Council in considering this point and may help both parties to avoid further delays and costs.

Regards

Olga Obushenkova
Lawyer

Telephone: 020 7974 4125



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From: Obushenkova, Olga
Sent: 17 April 2020 12:58
To: 'Sarah Ballantyne-Way' <sballantyneway@hghconsulting.com>
Cc: Whittredge, Emily <Emily.Whittredge@camden.gov.uk>
Subject: 2019/0508/5 The Hexagon - appeal 3247384

Dear Sarah

Thank you for your call earlier today.

As I understand, you wished to discuss the point of securing the CMP via a condition, rather than via a section 106 agreement. As noted previously, it is the Council's standard procedure to secure CMPs via section 106 agreements. This position has been acceptable to other developers (and mortgagees) on similar schemes and has been upheld by the Planning Inspectorate.

As I also understand from your comments, your client has obtained legal advice on this point. Please could you arrange for your client to provide the legal advice they have received to the Council as a matter of urgency so that the Council can obtain its counsel's view on the advice provided.

We understand your client's desire to reach an outcome without incurring further costs as far as possible, and as you will be aware, the Council has incurred costs in preparing and negotiating the agreement last year and is

incurring further costs due to your client commencing this appeal.

We are hopeful that the opportunity to review the legal advice your clients have received from their legal advisors may assist the parties to agree on a position and a way forward, and accordingly to minimise further time and costs for both parties.

Regards

Olga Obushenkova
Lawyer
Law and Governance
London Borough of Camden

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Web: camden.gov.uk

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Sarah Ballantyne-Way

Director



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26/05/2020

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