

WESTWAY ADVERTISING TOWERS - INPUT TO PAC REPORT FROM ST HELENS RESIDENTS ASSOCIATION

The Association's primary concern is that the council previously committed in writing in 2009 that when possible, it would take discontinuance action on the advertising consent for the towers at Westway Sport Centre. The council now appears reluctant to keep to this commitment.

The history of the planning process which led to the construction of these towers is important in setting the context to a decision on discontinuance action. Councillors on PAC need to be aware of explanations and commitments previously given by the Council to residents in Oxford Gardens/Quintin Conservation Area, immediately adjacent to the site of the towers.

The information below, and the attached correspondence, therefore covers the following ground:

1. History of the 2007 planning application
2. The 2008 planning appeal
3. Subsequent response from Westway Development Trust
4. Subsequent response from RBKC
5. The council's previous commitments on taking discontinuance action

History of the 2007 planning application

The council's arrangements for notifying and consulting on this application were seriously flawed. The documentation relating to the original application can be found on the council's website under PP/07/00910 for the erection of the towers and CA/07/00911 for the display of the advertisements, should councillors wish to check any of the facts stated below.

A series of planning applications for advertising towers had been submitted during 2007, by the Westway Development Trust, and had subsequently been withdrawn. A further application was made in the name of the Westway Development Trust (but via a letter from JCDecaux) in April 2007. This was refused by the council in May 2007. There are two key points to note about this stage of the process:

- the description of the application as published by RBKC gave no indication of the height and size of the proposed structures, referring only to the 'ERECTION OF 3 FREE STANDING STRUCTURES TO INCORPORATE ADVERTISING DISPLAYS'. The taller tower, and the one that blights the Oxford Gardens Conservation Area, is 30m or 100 feet in height.
- Consultation letters were sent by the council to 188 addresses in the surrounding area. Of these only 7 addresses fell within the adjacent Oxford Gardens CA, from which the main tower is highly visible from several streets and many individual houses. Given that these RBKC letters gave no indication of the scale of the proposed towers, it is unsurprising that only one objection letter was submitted. No site notices were erected.

History of the 2008 appeal

RBKC used the same list of addresses for letters of notification of the appeal, again ignoring the fact that the proposed main tower was immediately adjacent to the Oxford Gardens CA and that the council has Core Strategy policies to protect views in and out of conservation areas.

The appellants used Landmark Chambers to prepare comments on the council's case statement. Their comments included wholly inaccurate claims such as '*although Oxford Gardens CA is to the north of the appeal site, it is sufficiently removed so as not to have any bearing on the appeal site*'.

The reality on the ground is that the taller tower is sited 80m away (i.e. less than its own height) from the windows of households in the conservation area.

Had local residents been adequately notified of either the original application or of the informal appeal hearing that was held, we would of course have turned out in force to refute such obvious nonsense. Anyone who has seen the impact of the adverts on the main 30m tower, on views along the full length of Highlever Road and from the rear bedrooms of Oxford Gardens houses, will know the reality of the impact in terms of visual intrusion. Not only are the adverts highly visible on the skyline night and day but they also cause severe light pollution to neighbouring houses.

The Association wrote to the Planning Inspectorate subsequent to the Inspector's decision, and received a response (copy attached). The Inspectorate's letter of 15 September 2009 stated that, at the informal appeal hearing, *the council representative confirmed that she did not feel there would be any impact on the streets or on the CA in general.*

Local residents are not in a position to know how hard the council argued its cause at the hearing, or at what level of seniority the council was represented. The illuminated adverts are 6m by 9m in size and have a huge visual impact on the conservation area.

Subsequent response from Westway Development Trust

It was only when construction on the towers started that local residents became aware of what was happening. Initially a local campaign against what were dubbed 'The Towers of Terror' arose as a spontaneous response from local residents, and received press coverage in the Evening Standard and local press. The St Helens Residents Association was in its early days at that time, and became involved in this campaign in response to requests from local residents across the conservation area.

The then chief executive of the Westway Development Trust attended an angry public meeting of 90 residents on 30 April 2009, and failed to make a persuasive case for the Trust's decisions to lease sites to JC Decaux and to apply for consent to outdoor advertising towers.

The Association then sought information from Westway Development Trust on the following

- how these decisions were compatible with its stated objects as a charitable trust, and its origins as an amenity body holding public land in trust for the local community?
- why the Trust had not consulted with local people in the area, prior to appealing the decisions of the council to refuse the application for advertising towers? (the Trust claimed to have held a display for 2 days at the Westway Sports Centre. No consultation material was distributed within the surrounding area at the time of the original application, nor of the appeal)
- whether those trustees making these decisions were aware of the requirements of charity law in respect of disposal of land and assets?
- what income stream was due to be derived from the towers and what was the impact of this on the Trust's budget and programmes?

The Trust declined to answer any of these questions, citing 'commercial confidentiality' on the last.

The Trust has maintained this position ever since, relying on generalised assertions that the income stream from the towers is important in contributing to its programme of activities. To this day, local residents do not know how much income the Trust derives from these advertising sites, as the Trust's annual accounts give no detail.

When asked in more recent times (in correspondence and from the floor at its last two Annual General Meetings) to explain its response to the council's notification that discontinuance action would be started 5 years after the Inspector's approval (i.e. May 2013) the Trust has said that this is a matter for the council and not for themselves.

There is no sign in the Trust's annual reports and accounts that the Trust has made any preparations to find alternative income streams, suggesting it has never treated discontinuance action as a serious threat.

Subsequent response from RBKC

The local campaign against the towers in early 2009 led to correspondence between this association and the council, and many letters of complaint from residents to RBKC over the inadequate consultation process and lack of notification of the appeal hearing.

The volume of letters from residents was such that a standard response was issued in the name of the then Executive Director (David Prout). This gave the history of the planning refusal and the appeal process.

In separate correspondence to this association's then chair (Clare Singleton) of 12 June 2009, the Executive Director gave a fuller explanation, including the following:

We appreciate that you may believe that the Council should have gone beyond the statutory consultation requirements relating to the planning applications and advertisement consent applications. With hindsight it may be right that the Council should have done more to stir up opposition, but over the years we have refused many such applications and the Inspectorate has always supported us in the past. We were very surprised by the Inspector's decision.

Specific comments have been made relating to the description of the proposal used in the Council's publicity. We accept that a description specifying the exact height of the tower would have been useful. (NB the description did not just fail to give the 'exact height'. It failed to indicate that the structure was of any significant height, or that it would be illuminated. The average reader of notification letters on the application and appeal would have concluded that the proposal was for nothing more than a standard poster size advertisement hoarding).

The council's commitments on taking discontinuance action

The letter of 12 June 2009 from the Executive Director (referred to above) went on to state *we will be writing to the Westway Development Trust putting them on notice that that in five year's time, when we are able to serve a discontinuance notice, we will do so.*

A further letter to the Association from the Executive Director on 14th July 2009 stated *'With regard to putting Westway Development Trust on notice that we will take discontinuance action in 5 years time, I wrote to Martyn Freeman to this effect on 7 July'.*

Sir Merrick's Cockell's letter of June 2009 to the Association is attached. Following the letters advising that discontinuance action would be taken, the Association's then chair wrote to Sir Merrick to thank him for this decision by the council, and to let him know that this news had been well received at a public meeting of the association. Sir Merrick's letter of June 2009 is attached.

Efforts by the then Leader to facilitate discussions between the Trust and the Association to mitigate the impact of the towers (e.g. to lower illumination levels) came to nothing, the Trust seemingly

being unwilling to get involved. The Trust has continued to refuse to provide information on the income earned from its contract with JCDecaux, or to rethink its position on the towers. This is despite the fact that 8 of the Trust's trustees are RBKC nominees.

The 5 year period of advertising consent on the towers expired in May 2013. Since then, St Helens Residents Association has regularly asked for the Council to honour its commitment to take discontinuance action. Many residents have written to the Cabinet Member for Planning Policy to ask that this happen.

We feel that local residents have waited very patiently for the 5 year consent period to expire, confident that the council would be making up for its earlier failures to consult adequately on the original application or the appeal, and that the advertising on the towers would cease.

The Association has now been advised that no decision on discontinuance action will be taken this side of the May elections, because of the time required to prepare a committee report to PAC.

This leaves residents of the St Helens area with several questions:

- why was a situation ever allowed to arise whereby the Westway Development Trust proceeded to lease public land that it holds in trust, for which the Council holds the head lease from Transport for London, as sites for advertising towers?
- Did the council do all it could, back in 2007, to explore whether restrictions in its lease to WDT and/or its relationship with the Trust as a major funder, could have stopped such ideas in their tracks?
- were the acknowledged inadequacies of the council's notification and consultation processes on the 2007 application and the 2008 appeal the result of a lack of care and thought by the Planning Department? Or did they result from behind the scenes encouragement by the Trust (and/or individual trustees) to give a low public profile to the planning application and subsequent appeal?
- were the written commitments by the council's Executive Director that discontinuance action be taken after 5 years ever seriously intended to be implemented? Or were they made in the cynical hope that public opposition to the towers would fade over time and that discontinuance action would never need to be taken?

As you might expect, this whole sequence of events has left the St Helens Residents Association (membership now over 300) feeling that neither the Trust, nor the Council, has acted properly or in good faith. There may be a case for the Trust to derive some income from outdoor advertising, as one of many means of using its land assets to generate revenue to support its programmes. But the route chosen by the Trust, with no prior consultation with the local communities whom it is there to serve, was not the way to go about it.

The Council, for its part, can plead that it originally refused the Trust's planning application. But now that the 5 year consent period has expired, local residents can see no good reason for continued delay in taking discontinuance action. The Trust has had notice for 5 years of the need to seek alternative revenue sources.

The 2007/2008 decisions have led to a scenario where advertising towers stand at the Westway Sports Centre in clear breach of Core Strategy planning policies, and more recent policy statements included by the Council in the 2012 Westway SPD. The council now has the opportunity to remedy this situation, by initiating discontinuance action.

If the council fails to take this step, not only will it leave St Helens residents disillusioned by its unwillingness to stick to previous promises. It will send a wider message to the outdoor advertising industry that the council lacks resolve in implementing its own policies to protect the heritage and streetscape of the Royal Borough.

St Helens Residents Association March 2014