

# Botus Fleming Parish Council

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## Briefing Note

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### Complaint from Ellenden Limited

#### 1.0 INITIAL EMAIL TO PARISH CLERK FROM ELLENDEN 20 NOVEMBER 2017

*Please find a self-explanatory letter attached.*

*Many thanks.*

*Chris Jarvis  
Ellenden Ltd*

Copied to Cllr Jesse Foot

Document attached Appendix 1

#### 2.0 RESPONSE FROM PARISH CLERK 21 NOVEMBER 2017

*Thank you for your email where you make allegations of unfairness by the parish council in commenting on your recent planning application (PA17/07968).*

*In order to progress with your complaint, can you clarify for me which Stage 4 you believe you are at? Is this the Stage 4 of 'Written complaints' or 'Complaints against an officer of the council'? I'm attaching a copy of the Complaints Procedure for your information.*

Document attached Appendix 3

#### 3.0 RESPONSE FROM ELLENDEN 22 NOVEMBER 2017

*I have been away from home otherwise I would have replied to your query yesterday.*

*The unfairness complained about concerns the handling of Ellenden Ltd's planning pre-application and the planning application itself by Botus Fleming Parish Council. The unfairness throughout the whole of the period is outlined in Ellenden's submission to Cornwall Council dated 2 October. This submission was in response to Botus Fleming Parish Council's comments to Cornwall Council dated 29 September but seems to be described as "a letter" in Parish minute 155.*

*In Minute 155 of the October meeting your Chairman invites Ellenden Ltd to use the Parish Council's complaints procedure if it has/had cause to disagree with your Council's behaviour. As the Chairman has asked for this it seems constructive to agree with his request.*

*Having read the Parish Council's Complaints Procedure before drafting our letter we seem to be at section/paragraph four of the Written Complaints procedure in that the Parish Council has received notice of a written complaint [paragraph/section 1 of the procedure] and now the Complainant has been "offered the opportunity to explain the nature of the complaint to the meeting".*

*While writing I would like to clarify the final sentence of my letter dated 19 November. I appreciate that the procedure does not provide for “an exchange of views” as such but simply a “discussion”. The directors of Ellenden Ltd are very prepared to respond to any questions that Councillors may have on the subject of the company’s complaint.*

Document attached Appendix 2

#### **4.0 FROM PARISH CLERK TO ELLENDEN 23 NOVEMBER 2017**

*The councillors noted receipt of your email at the public meeting last night, and will be inviting you to attend the next public meeting on 20 December 2017.*

*I'll send out details of the arrangements nearer the time.*

#### **5.0 ATTACHMENTS**

Appendix 1 Letter from Mr Jarvis dated 20 November 2017

Appendix 2 Letter from Ellenden to Cornwall Council Planning 2 October 2017

Appendix 3 BFPC Complaints Policy

Author: John Hesketh

Date: 14 December 2017



Ellenden Ltd Cross Farm House Hatt Saltash PL12 6PL 01752 842430 mail@ellenden.co.uk Company No: 5891946

The Clerk to Botus Fleming Parish Council,  
Lambest Cottage,  
Menheniot, PL14 3RE.

19 November 2017

Dear Mr Hesketh,

**Proposed Development at Orchard Meadow, Hatt – PA17/07968.**

I just happened to delve into the minutes of the Parish Council meeting held on 25 October and read of a “letter” from Ellenden Ltd that had caused comment [Minute 155]. I also read of the Council Chairman’s invitation for Ellenden Ltd to use the Council’s complaints procedure if our company had cause to disagree with the Council’s behaviour. I feel that it would be constructive to respond on these two matters.

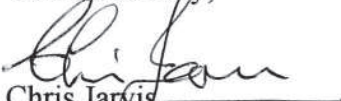
**The “Letter”.** I cannot find this “letter” on the Council’s web site but, from the minutes, it appears to have been this company’s response dated 2 October to the comments dated 29 September made by the Parish Council to planning application PA17/07968. Our response was made to Cornwall Council as part of the application process and was published on that Council’s web site in the normal way. It followed the same procedure as that for the Parish Council’s own comments as a statutory consultee.

I am very surprised that the appropriateness of Ellenden’s response is questioned because it is normal procedure, and a long standing convention, that applicants [and appellants on appeal] have the right to respond to comments and issues raised by statutory bodies and third parties in land-use planning proceedings. This principle, known as *natural justice*, was established by the Courts over a century ago.

**The Complaint.** The representations that this company has made included an allegation of unfairness by the Parish Council in the course of the application process. I firmly stand by that allegation now. If during my time hearing and determining planning appeals and applications for awards of costs I had followed similar principles and practices to those that we experienced during this company’s dealings with the Parish Council this year, I feel sure that my decisions would have been quashed by the High Court or, at the very least, I would have been the subject of justified complaints over my handling of the cases.

I therefore welcome, and accept, the Chairman’s invitation on the basis that the Council has received our written complaint of unfairness and that we are now at stage 4 of the procedure. We have now been offered the opportunity to explain the nature of our complaint to a meeting of the Council. In view of the [unwarranted] hostility shown to us, and the misrepresentation and defamation that we have suffered from some parishioners, we wish for discussion to take place in the absence of the press and public please. In our representations we will not be referring to any specific individuals but focussing solely on Parish Council procedure and conduct. I hope that an exchange of views will be helpful for future proceedings.

Yours sincerely,

  
Chris Jarvis  
Managing Director

Copy to: Cornwall Councillor Jesse Foot