

## Parish Clerk

---

**From:** Parish Clerk <clerk@botusfleming.org.uk>  
**Sent:** 29 March 2018 11:40  
**To:** 'Chris Jarvis, Ellenden Ltd.'  
**Cc:** 'Jesse Foot (jesse.foot@cornwallcouncillors.org.uk)'; Dave Edwards (dave.edwards@botusfleming.org.uk); Denis Morgan; John Robinson (john.robinson@botusfleming.org.uk); Malcolm Fletcher (malcolm.fletcher@botusfleming.org.uk); Mervyn Ellis (mervyn.ellis@botusfleming.org.uk); Sally White (sally.white@botusfleming.org.uk); Stephen Malcolm; Trevor Aughey (trevor.aughey@botusfleming.org.uk)  
**Subject:** RE: Complaint by Ellenden Ltd

Good Morning Mr Jarvis,

Councillors discussed your email at their public meeting last night, and agreed this response:

1. Chronology
  1. October 2017 – Ellenden submission to Cornwall Council in which unfairness was alleged.
  2. October 2017 – Parish Council considered Ellenden's comments, agreed that standing orders had been followed, and advised Ellenden of our complaints procedure should the company wish to make a formal complaint.
  3. November 2017 Official complaint from Ellenden and request for discussion.
  4. December 2017 – Discussion with Mr Jarvis in closed session when a further document concerning details of the complaint was served on members.
  5. January 2018 – Mr Jarvis wrote to tell us that he considered the matter closed but did not withdraw his complaint.
  6. January 2018 – Minutes of above meeting challenged by Mr Jarvis
  7. February 2018 – Parish Council resolved to limit the content of the closed session to a simple record that the meeting took place. As details of Complaint were still in public domain and unchallenged, the PC resolved to complete the remaining stages of the complaints procedure.
2. Substance of initial complaint.
  - 2.1. No response to letter of 10th July 2017 “We would welcome any advice your council may wish to offer”
    - 2.1.1. The PC became aware of the controversy surrounding the proposed development during the pre-app period.
    - 2.1.2. Members acquainted themselves with details of the proposals and the objections raised by other residents.  
Members were unable to identify any material conditions that gave rise to concerns.
    - 2.1.3. Several residents approached members requesting advice and were advised that the PC members needed to retain their impartiality and advised them to seek advice from an expert.
    - 2.1.4. At the same time, Members had concerns about the potential impact on the recreation field and asked the planning officer leading the case to advise us.
    - 2.1.5. No response came but the pre-app was reviewed favourably and the private drive was considered to be a barrier to further development.
    - 2.1.6. Comment

2.1.7. The PC maintained a neutral stance and did not offer advice to either side.

2.1.8. To offer an opinion at this stage could lead to an accusation of bias.

2.1.9. The PC should have acknowledged the receipt of this letter.

2.2. Public participation at PC meeting.

2.2.1. Mr Jarvis states that he should have been given an opportunity to address Members' concerns during the ensuing debate.

2.3. Comment

2.3.1. The PC has standing orders and these were followed. Mr Jarvis was accorded the opportunity to address the members and he took full advantage of this. Objectors to the proposal were availed themselves of the same opportunity.

2.4. Reference to correspondence from objectors.

2.4.1. The agenda refers to refers to copies of submissions to CC and were for information only. They were of no relevance to the meeting.

2.5. Predetermination

2.5.1. "I had the clear impression that the Council had decided previously what its decision would be and its reasons."

2.6. Comment

2.6.1. This impression is not based on any evidence and no facts are offered to justify the assertion.

2.6.2. Members did have concerns about the interpretation and application of Cornwall Local Plan Policy 3 and, up until the time of the meeting, strenuous efforts were being made to clarify the situation.

2.6.3. The first opportunity Members had to discuss the issue and agree a response was during the PC public meeting.

3. Substance of document submitted in closed session December 2017

3.1. Failure to engage

3.1.1. PC did not accept our several invitations.....to engage with us and view the site....

3.2. Comment

3.2.1. Ellenden and their agent had supplied detailed plans and had addressed concerns of residents by posting responses on the CC website. Members felt that they were fully informed and had no need for a site visit with the developer.

3.2.2. Members were keen do demonstrate their impartiality – they had not agreed to meetings with objectors other than in the public view at PC meetings.

3.2.3. Given that we had concerns about the interpretation of Cornwall Local Plan Policy 3, and that the applicant had stated his position in his pre-app and subsequent application, there was no benefit in entering into discussions with the applicant on this matter as he would not be unbiased.

3.3. Did not convene a public site meeting

3.4. Comment

3.4.1. The PC offered to host a meeting of all interested parties. This was not acceptable to the applicant.

3.4.2. We understand that the applicant received several requests for a meeting with residents but declined.

3.5. “Did not make the company aware of the Council’s concerns...”

3.6. Comment

3.6.1. The PC was still making enquiries about CLP Policy 3 up to, and including, the day of the PC meeting.

3.6.2. The Members have no duty to communicate their thinking but the PC has a duty to communicate its decisions

3.6.3. See 3.2.3 above.

3.7. “Accepted without comment a plainly fraudulent document....”

3.8. Comment

3.8.1. The complainant has acknowledged that this is incorrect and has apologised for the error.

3.9. “.....asked us whether the company was going to pay compensation...”

3.10. Comment

3.10.1. This question came from the floor during the public participation and the Chairman gave Mr Jarvis the opportunity to respond.

3.10.2. It was not a question from the PC.

3.11. “...did not mention national policy....had planning consultant’ advice available”

3.12. Comment

3.12.1. There was a wealth of background information that went towards influencing the discussion. Members had looked at national and local policy and had studied appeals and decisions overridden by the Secretary of State. We could not be expected to revisit all of this during the discussion.

3.12.2. The PC did not retain the services of a planning consultant to advise us on this matter and no such advice was received.

3.13. “Failed to make clear its design objections”

3.14.

3.15. Comment

3.15.1. The failure to support the application was entirely because of CLP Policy 3 interpretation. Any comments about design were purely advisory.

3.16. “Did not allow Ellenden’s representative to speak on new issues”

3.17. Comment

3.17.1. See 2.4.1 and 3.2.3

### 3.18. Perception of persecution

3.18.1. This is simply that – a perception. Members are actively looking at ways of supporting and encouraging development to meet our development targets. The Orchard Meadow development makes a significant contribution to this target.

3.18.2. The protection of the playing field is of paramount importance to the residents of the parish. It was made clear to the applicant that the proposals would be supported once the future of the playing field was secure.

## 4. Conclusion

Throughout this process members have acted with integrity and impartiality. Given the divisions in the community caused by this application, Members dealt with all approaches sensitively and impartially and carried out due diligence when assessing this application. Despite this, the PC found itself being the object of unfounded and damaging comments and it should be noted that the complainant has apologised for and distress caused by his comments.

Kind regards

John Hesketh  
Parish Clerk & RFO  
Lambest Cottage  
Cornwall PL14 3RE

01579-342437  
clerk@botusfleming.org.uk  
botusfleming.org.uk  
My usual working hours are Monday – Wednesday 9am to midday

-----Original Message-----

From: Chris Jarvis, Ellenden Ltd. [mailto:mail@ellenden.co.uk]  
Sent: 18 March 2018 12:22  
To: Parish Clerk <clerk@botusfleming.org.uk>  
Cc: Jesse Foot <jesse.foot@cornwallcouncillors.org.uk>  
Subject: Complaint by Ellenden Ltd

Dear Mr Hesketh,

Thank you for your e mail of 6 March.

Our comments of 2 October 2017 to Cornwall Council during Ellenden Ltd's planning application were made honestly and in good faith purely and simply in response to the actions and omissions of the Parish Council as we experienced them.

I must respectfully disagree with the Parish Council's contention that our comments on unfairness were time barred or were immaterial. Firstly, natural justice justifies extension of deadlines in appropriate cases as a matter of law. Secondly, unfairness, when demonstrated, reduces the cogency of the submissions complained about. I have re-read our submissions and I find them to be perfectly fair and reasonable in the circumstances that prevailed for Ellenden Ltd at that time. Please send us a copy of the Parish Council's request to Cornwall Council seeking redaction of

our submissions so that we can see the justification for seeking such extraordinary action. This is the first we have heard of it.

We are pleased to hear that the minutes of the closed session will be amended. We just hope that they will be fair and the briefer the better. We have no wish to record any further criticism of the Parish Council, or to comment, or to continue these exchanges.

In view of my comments above we see no point in withdrawing our complaint as it is set out in our submission to Cornwall Council dated 2 October 2017.

I would be grateful if you would circulate this e mail to all Council members please.

With thanks and kind regards,

Chris Jarvis  
Ellenden Ltd  
Telephone: 01752 842430  
Email: mail@ellenden.co.uk