Islington Council court ordered to release information about its controversial plans to build a care home

Thursday 25 June, 2020

A tribunal has ordered Islington Borough Council to disclose information after it was found to have purposely withheld information regarding its controversial plan to build a four-storey residential care home in Windsor Street, Islington - information which it should have released under the Freedom of Information Act and Environmental Information Regulations.

A request for information about the scheme was made shortly after the Council's project manager stated at a public meeting in September 2015 that the proposal would go through come what may, and refused requests for more information about how the viability of the scheme had been determined. Judge Holmes of the tribunal determined that this suggested "a mindset that the decision had been taken, and would be maintained, whatever the views received through the consultation process." and "that the approach may well have informed, and continued to inform, the willingness of the Council to provide further information, or to make efforts to look for it when requested."

In 2018 the Council approved its own plans for the class C2 residential care home. Once built it will accommodate up to 18 people with communal facilities and a sleep-in unit for staff. The Council aims to run the scheme as supported living accommodation for adults with autism and learning disabilities. This is despite the Care Quality Commission's rules stating that supported living should be family-sized and accommodate no more than six people together, and NHS England guidance calling for people with autism and learning disability to be accommodated in ordinary homes on ordinary streets.

The scheme was opposed by Dr Simon Duffy of the Centre for Welfare Reform who said, "The proposed development conflicts with the rights of people with disabilities (as set out in the UN Convention on Rights of Persons with Disabilities) and fails to meet the standards of best practice in supporting people with learning disabilities as developed over the past 30 years and established by even the most conservative organisations (e.g. CQC). To develop this service is to fail in your [Islington Council's] duty to disabled people and fail in your [Islington Council's] duty to develop an inclusive community where all citizens can live with dignity and respect." It was also opposed by Sally Warren of Paradigm, the learning disabilities organisation which developed the Reach Standards for Supported Living. Local residents, including Ms Weston who brought the case to the tribunal, had welcomed the development of the site, and the provision of accommodation for people with learning disability and autism, but had opposed the design of the building on the basis that it could harm the wellbeing of the intended residents and suggested the building could be redesigned to be more neighbourly. Regardless, Islington Council awarded itself planning permission.

Ms Weston said "I'm grateful for the tribunal's decision, but if Islington Council had shared the information when it was requested nearly five years ago and taken a less adversarial approach, residents with learning disabilities might now be living in proper homes and not still waiting for this unsuitable scheme to be built."

Ends

Contact details:

Gillian Weston

email gillweston@hotmail.com

tel: 07702 291 417

Further information about the case and the Windsor Street scheme

The case:

The tribunal case (reference EA/2018/0227) was between Gillian Weston and The Information Commissioner and Islington Borough Council. It was heard by Judge Paul Holmes, Mike Jones and Rosalind Tatam at the First-tier Tribunal (General Regulatory Chamber) Information Rights on 24 September 2019 and 13 January 2020. The decision was made on 18 June 2020. (If you're unable to find the decision notice on the Tribunal's website, a copy can be downloaded from:

Related Sectors:

Charities & non-profits :: Government :: Health :: Opinion Article :: Public Sector & Legal ::

Related Keywords:

Islington :: Learning Disabilities :: Autism :: Care Homes :: Supported Living :: FOI :: Islington Council :: Winterbourne View :: Windsor Street ::

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The quotes from Judge Holmes were taken from paragraph 211 of the tribunal decision.

As part of the evidence, as shown in paragraph 105 of the tribunal decision, the Council decided that the sensitivity of the scheme had increased between the time of the original request for information (30 September 2015) and an attempted intervention by the Information Commissioner's Office (ICO) in October 2017.

The case brought by Gillian Weston, a psychologist and wellbeing consultant, and a PhD student in the Department of Epidemiology and Public Health at University College London, is an Islington resident.

The building and it's escalating costs:

In June 2014 the Council costed the scheme at £1.98 million, but by January 2020 the costs had almost trebled to £5.52 million. It is scheduled to be built by July 2022.

The controversies:

1. Planning and financial chicanery?

Islington Council planners approved the Windsor Street scheme as a C2 'secure residential institution', but the Council's adult social services team plan to register it with the Care Quality Commission as 'supported living'.

Unlike residential care, whereby the local authority is responsible for the package of care costs and accommodation, supported living enables the local authority to fund the care whilst the accommodation costs would be met by rents and/or housing benefit from central government.

Whereas a residential care home must be registered and inspected by the Care Quality Commission (CQC), a supported living scheme only needs to have the care element registered with the CQC.

Thus, for financial and regulatory reasons the Council have positioned the Windsor Street scheme as 'supported living', which would ordinarily fall within the Class 3 planning uses; whereas for planning reasons it positioned the scheme as residential care which is defined as Class 2 usage

2. Further planning chicanery?

The scheme is not being built to as high a standard as would be required for social rental family accommodation: Pre-planning advice provided in 2014 from the Council's planning department to the Council's project manager (one of the documents originally withheld by the Council) advised that the planning department would not support the application if it was intended for general rent (i.e. social housing) as it would breach planning policies, yet it said it would be permissible for adults with learning disabilities.

The planning application was for “11 supported living units” with an internal layout comprising of "7 no. single person apartments, and 1 no. four bedroomed shared apartment" (and residents of all units would have access to the communal facilities throughout the building including the ground and first floor kitchen/living/dining facilities and a fully accessible bathroom); however, the Council's new build team now state that it will house up to 18 people. See:

(then click on Windsor Street)

3. Will the CQC register it?

The CQC explain in their document 'Registering the Right Support' that supported living means that fewer than six people with learning disabilities and/or autism should live together, and that composite sites (where there are multiple homes for people with these disabilities) should not be permitted.

Similar schemes to the one intended for Windsor Street have been blocked by the Care Quality Commission - see for example the following cases:

and

https://www.cqc.org.uk/news/releases/tribunal-cqc-decision-learning-difficulties

The Council can't seek registration from the CQC until the Windsor Street development is built. So if the Council goes ahead and builds it but the CQC refuse to register it, then it's likely that the Council will return to 'plan B' - a proposal to turn the building into general rent housing - which, as explained above, the pre-planning advice said the planning department wouldn't support. However, there was a caveat to that advice when it said "if it can be demonstrated that the existing accommodation is unsatisfactory for modern standards and/or not fit for purpose and the proposed development would provide accommodation to meet an identified acute need which may include social housing."

If one was to take a cynical view, perhaps this is all just an exercise for the Council to get social-rented housing on a difficult site! And perhaps that's why the Council has not wanted to share the documents with the public.

Company Contact:

Gillian Weston

T. 07702 291417
E. gillweston@hotmail.com

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