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020 8461 7647
marion.paine@bromley.gov.uk DX5727 BromleyMr M Mielniczek
68 Manor Way,
Beckenham
BR3 3LR

Your ref:

Our ref: L15 18/5/35/13

06 August 2015

Dear Mr Mielniczek,

**PROPOSED REDEVELOPMENT OF HARRIS ACADEMY SITE, MANOR WAY,
BECKENHAM**

I acknowledge receipt of your document entitled "Pre-Action Letter – Judicial Review" in the name of the Kelsey Estate Protection Association (KEPA) in respect of the above, received here by email on 24th July (which I will refer to hereafter as "the Letter").

However, if and insofar the Letter is intended to comply with the requirements of the High Court's current Pre-Action Protocol for Judicial Review (April 2015) to be found at(https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_jrv) then it is premature due to the fact that no decision notice has been issued in respect of the matter on which you have raised complaint. Established case law and, now, Civil Procedure Rule 54.5(5) confirm that the reduced six weeks time period for judicial review only runs from the date of the decision notice. Further, CPR 54.21(2)(a)(i), as supplemented by Practice Direction 54E, would require such proceedings to be taken in the Planning Court.

May I reassure you that the Council has carefully reviewed the contents of the Letter with Senior Counsel. However, the advice we have received is that there is nothing in the matters alleged in your letter which warrants the commencement of a Judicial Review, which is a procedure concerned with the legality of the decision-making process and not the planning merits. Nevertheless, as the Council wishes to work with all interests within the local community it is currently considering all its options, in its capacity, here, as local planning authority including taking the matter back to committee.

In this regard, although the Letter (para. 9) states "*ADR Proposals – None*" the Council is mindful of its duties under the Judicial Review Pre-Action Protocol (paras. 9-12) to explore possible routes of settlement to avoid litigation. As you have not made any proposals in this respect may I suggest that a meeting be arranged with the Council's Chief Planner, Mr Jim Kehoe to explore your concerns. I understand that Mr Kehoe is on leave until 25th August but if you contact Ms Najmin Qureshi (Najmin.qureshi@bromley.gov.uk), his personal assistant, she will arrange a suitable meeting time following Mr Kehoe's return.

It is proposed that up to 3 representatives attend, from each of KEPA, the Council, and the applicants and that Mr Kehoe chairs the meeting, at the Civic Centre. This meeting could be relatively informal, without legal representatives, and including a 10 minute opportunity for each of KEPA, the Council and the Applicants to make a statement, followed by a discussion.

Please be aware that your willingness to attend and your input at such a meeting with Mr Kehoe may assist with the course of action then Council then takes .

I also note from the Letter that you have stated "*None*" in relation to para. 6 "*Details of Interested Parties*". That is incorrect. The applicant, Keir Construction Limited, is, very much, an interested party in relation to any litigation. Therefore, it must be formally notified by you, and not informally through the Council, as Keir may wish to respond directly. Therefore, I recommend that you effect such formal notification as soon as possible by sending, first class, a copy of your letter to Keir Group Services, Legal Department, Tempsford Hall, Sandy, Bedfordshire SG19 2BD.

In addition, the Education Funding Agency and Harris Federation also appear to have a relevant interest. I understand that their contact details for service are as follows:
-Stuart Sands, Education Funding Agency, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, and
- Jonathan Coad, Harris Federation, 4th Floor, Norfolk House, Wellesley Road, Croydon CR10 1LH.

Finally, at para. 13 of the Letter you propose a reply date of Friday, 14 August 2015 as the date for the Council's "*full reply*". Unfortunately, your combined Freedom of Information Act request, the non-service on Keir as well as the holiday period all make the achievement of this deadline unachievable. Given that the Council has not yet issued the decision notice in respect of the above-application I propose that Friday, 4th September is a more sensible deadline, and, to which officers will now work.

Yours sincerely

Marion Paine
Lawyer (Planning, Litigation & Licensing)
London Borough of Bromley