



Brighton & Hove

# Memorandum

From: [REDACTED] Date: 2 March 2007  
[REDACTED]  
[REDACTED] Our ref:  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Service: Development Control Phone:  
Location: Hove Town Hall Fax:  
To: Martin Randall e-mail:  
Copies to: [REDACTED]  
[REDACTED]

Dear Martin,

We are writing on behalf of the individual planners working within the council's development control team to express concern about a number of aspects relating to the King Alfred application. We do this with some reluctance as we acknowledge the potential benefits of a successful redevelopment of the site. However, we feel that the scheme has gained a momentum which may result in an ill-judged planning approval which compromises key planning objectives for the City.

None of us have been directly involved in the determination of the application. However, we understand that our colleagues have concerns that the scheme represents significant overdevelopment of the site and would have an adverse impact on a range of issues of planning concern. As a direct consequence, approval could prejudice our ability to deliver other developments across the city in accordance with council policy. Whilst we do not have full knowledge of the scheme, we can understand how they have come to this view.

The members of the Royal Town Planning Institute listed above also have concerns regarding compliance with the RTPI Code of Professional Conduct. These members are concerned that pressure is being put on certain people to act in a way that does not accord with the RTPI's Code. The Code requires members to act with 'honesty and integrity' and to 'fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding.' Furthermore, Article 3 of the Code states that 'members shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions....' It is our impression that, in being asked to support a recommendation for approval, our affected colleagues are being asked to act in a way that is contrary to the Code, and could result in disciplinary action being taken by the RTPI.

For the above reasons, we are concerned about the undue pressure being put on colleagues to support a recommendation for approval. We wish to express our support for our colleagues and trust that they will not be required to act in a way that they personally feel would compromise their professional honesty and integrity.

If you would like to discuss this with us further as a team, we would be happy to meet you.

[REDACTED]

[REDACTED]



Martin Randall  
05/10/2007 14:20

To: Abraham Ghebre-Ghiorgis/PR/KH/BHC@BHC,  
Bob Bruce/PR/KH/BHC@BHC  
cc: Jenny Rowlands/PR/KH/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC  
Subject: Fw: KA -your first response

--- Forwarded by Martin Randall/MAIL/BHC on 05/10/2007 14:20 ---



[REDACTED]  
05/10/2007 13:19

To: Martin Randall/MAIL/BHC@BHC  
cc: [REDACTED]  
Subject: KA -your first response

--- Forwarded by [REDACTED] /EH/BSQ/BHC on 05/10/2007 13:19 ---



Martin Randall  
02/03/2007 10:40

To: [REDACTED] /EH/BSQ/BHC@BHC  
cc: [REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED]EH/HTH/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED]EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED]EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC, [REDACTED]  
[REDACTED]MAIL/BHC@BHC

Subject: Re: King Alfred [REDACTED]

[REDACTED] all

Let me assure you categorically that no-one is being asked to support a recommendation for approval (see your text below). [REDACTED] is doing a great job with the report, but is not working on anything that he cannot support in accordance with the RTPi Code of Conduct.

I have been absolutely clear that I don't want anyone to do anything that they are fundamentally uncomfortable with and I really appreciate the support I have been given by members of the team to date. I sincerely hope I can re-assure you then that no-one is being asked to act in a way that does not accord with the Code of Conduct.

I am very concerned that anyone would think that undue pressure is being applied, or pressure of any type and would be more than happy to discuss.

Martin

The members of the Royal Town Planning Institute listed above also have concerns regarding compliance with the RTPi Code of Professional Conduct. These members are concerned that pressure is being put on certain people to act in a way that does not accord with the RTPi's Code. The Code requires members to act with 'honesty and integrity' and to 'fearlessly and impartially exercise their independent professional judgement

to the best of their skill and understanding.' Furthermore, Article 3 of the Code states that 'members shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions....' It is our impression that, in being asked to support a recommendation for approval, our affected colleagues are being asked to act in a way that is contrary to the Code, and could result in disciplinary action being taken by the RTPI.

[REDACTED]



[REDACTED]

02/03/2007 11:21

[REDACTED]

To: Martin Randall/MAIL/BHC@BHC  
cc: [REDACTED] /EW/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /EH/HTH/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]

Subject: King Alfred

Dear Martin

Please see attached memo from members of the DC team.

[REDACTED]

  
DCcomments.doc



Martin Randall  
05/10/2007 14:21

To: Abraham Ghebre-Chlorghis/PR/KH/BHC@BHC,  
Bob Bruce/PR/KH/BHC@BHC  
cc: Jenny Rowlands/PR/KH/BHC@BHC, [REDACTED]  
[REDACTED] MAIL/BHC@BHC  
Subject: Fw: Your KA response

--- Forwarded by Martin Randall/MAIL/BHC on 05/10/2007 14:20 ---



[REDACTED]  
05/10/2007 13:20

To: Martin Randall/MAIL/BHC@BHC  
cc:  
Subject: Your KA response

Follow-up from you

--- Forwarded by [REDACTED]/EH/BSQ/BHC on 05/10/2007 13:17 ---



Martin Randall  
02/03/2007 17:01

To: [REDACTED] /EH/BSQ/BHC@BHC  
cc: [REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /EH/HTH/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC

Subject: Re: King Alfred [REDACTED]

[REDACTED] all,

Further to my last e-mail, here is a copy of an opinion that Abraham has provided me with. I must be clear that it is an opinion that Abraham has discussed with Hilary and others and in that respect was canvassed for by me as I was aware of the concerns. I must be equally clear that in obtaining this opinion, it does not follow that I am trying to prove a point or somehow claim I am right and others are wrong or use it as some sort of 'threat' to coerce people in to doing something against their will.

I really do hope this e-mail provides some further re-assurance.

Martin



[REDACTED]



[REDACTED]  
02/03/2007 11:21

To: Martin Randall/MAIL/BHC@BHC  
cc: [REDACTED] /EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /EH/BSQ/BHC@BHC, [REDACTED]  
[REDACTED] /EH/HTH/BHC@BHC, [REDACTED]  
[REDACTED] /MAIL/BHC@BHC, [REDACTED]

## **Role of Planning Officers in the Preparation and Presentation of Committee Reports**

### **1. Background**

1.1 The planning application in respect of the King Alfred development is due to be presented to the Council's Planning Application Sub-Committee shortly. As I understand it, there have been discussions between planning officers some of whom may have reservations about aspects of the development and may find it difficult to support a recommendation to grant. This in turn has raised issues as to whether, and if so to what extent, such officers can take part in the preparation and/or presentation of the report if the overall recommendation is to grant.

1.2 The concern is influenced, at least in part, by the requirements of the Royal Town Planning Institute (RTPI) Code of Professional Conduct. I have been asked to give my opinion, and although I have some hesitation about advising on professional conduct that relates to another profession, I have put down my personal opinion in the hope that it may be helpful. I have discussed this with colleagues in legal who deal with planning and major developments.

### **2. The RTPI Code**

2.1 All members of the RTPI are required to abide by its code of professional conduct. The Code has several provisions, including the following:

Para 3: "Members shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions and shall not knowingly enter into any contract or agreement which requires them to do so."

Para 12: "Members with responsibility for the work of a company or of a practice or partnership or of a local planning authority or of any central government department or agency or of any other organisation or body

any of which is engaged in town planning work, or for the work of any department, section or team within any such organisation or body, shall take all reasonable steps to ensure that all town planning matters in the organisation or body, or within that part of the organisation or body for which they have responsibility, are conducted in accordance with this Code, whoever undertakes such work.”

2.2 The purpose of the Code includes ensuring that members of the Institute “shall fearlessly and impartially exercise their independent professional judgement to the best of their skills and understanding” and “shall discharge the duties to their employers, clients, colleagues and others with due care and diligence...”

2.3 It is true that if any planning officer were to be required to make a statement, write a report or do a presentation that is contrary to his/her professional opinion, that may amount to a breach of the Code. However, as with all professions, there are bound to be differences of opinion and judgement. It would for obvious reasons not be good practice to present Members with say five different recommendations from five planners. It would therefore, in my view, be entirely consistent with the Code to adopt the following arrangements:

- (a) It would not be inappropriate for a planning officer to contribute to or write part of a report notwithstanding that they may disagree with the overall recommendation. What is important is that the part they write reflects their true opinion, irrespective of whether or not they actually agree with the overall recommendation or other parts of the report for which they are not responsible.
- (b) By the same token, it would not be inappropriate for planning officers to do part of the presentation to members as long as their part is limited to presenting factual evidence or opinion that they believe in. They do not have to agree with statements by every person who does other parts of the presentation or the overall assessment.

(c) As with all professions, not just planning, someone has to do the overall assessment and give members a recommendation that, on balance, he/she thinks is supported by the evidence.

(d) In terms of advising Members or doing a presentation, each Director and Head of Profession is entitled to designate one officer as the Lead Officer. In such cases, the advice to the Members should come from the Lead Officer and, in my view, the requirements of paragraphs 3 and 12 of the RTPI Code do not impose a positive duty on any planner present in the meeting to express their disagreement, if they disagree. If the officer feels uncomfortable with the advice being given, it would be entirely consistent with the Code to decline to answer questions and refer them to the Lead Officer.

(e) No planner should be forced to make a statement or write a report that is contrary to their bona fide professional opinion. This does not mean they have to agree with everything in the report, only the parts that are attributed to them, if they are attributed. They should however not be put in a position of having to say what they don't believe in.

2.4 The words "subscribe to any statements or reports..." in paragraph 3 of the Code are susceptible to different interpretations. However, I do not think they preclude a planner from contributing to a report if he/she disagrees with parts of the report that he/she is not responsible for. The word "subscribe" is defined in the Oxford English Dictionary as "feel agreement with an idea or proposal." In my opinion this is entirely consistent with someone writing parts of the report which, for example, deal with height or amenity aspects, although they may disagree with other aspects (for example transport or sustainability) or the overall recommendations.

### 3. Whose Report is it?

3.1 Could one have a situation where every contributor to the report has a veto on the report? Under our constitution and report writing protocol, reports are



submitted in the name of the relevant Director and professional advice is given by the Director or Head of Profession. When a report is contributed to by many people, it is inevitable that there will be differences of opinion or emphasis. In the interests of consistency and coherent presentation, someone usually takes overall editorial responsibility. In my view, it would not be inappropriate for the person who has overall responsibility to make modifications to the report as long as the essence of the attributed expert opinion is not altered.

3.2 The Code of Conduct also imposes a duty on members towards their employers, in this case the Council. It would therefore be difficult to interpret the Code as meaning that anyone who disagrees with the overall recommendation should have nothing to do with the report.

3.3 Finally, in my view, although many people may contribute to a report, the report finally remains that of the Director, in whom the delegated powers are vested, and any professional advice given is the responsibility of the Head of Profession who, if an RTPI member, must ensure that the Code is adhered to. This means that, ultimately, they have the final editorial control.

#### **4. The Legal Position**

4.1 There is no legal restriction or requirement as to how the writing of reports and presentations should be dealt with. The proposals set out in paragraphs 2.3 (a) to (e) are therefore in accordance with the law.

4.2 The RTPI Code is a professional code rather than legislation or statutory guidance. The views expressed here are therefore my opinion and the interpretation of the Code and advice to planners is ultimately a matter for the RTPI. I however hope that our client colleagues find this helpful.

**Abraham Ghebre-Ghiorghis**

**Head of Law**

**1 March 2007**