



HIGHGATE SOCIETY

10A South Grove, N6 6BS
13 November 2022

To: Councillor Georgia Gould, Leader, LB Camden Council

Dear Georgia

Community Consultation

The naming of the roundabout at the southern end of Swains Lane has generated considerable opposition. Very little of that opposition is to the principle of naming somewhere after a Russian dissident. The objections have been to the choice of location; to the choice of individual to commemorate; to the disruption caused by road closures associated with the naming event; to the cost, and other issues.

No, the heat that has been generated and the strength of the objections has been, we judge, because of the approach taken to consultation with the community by Camden Council. There were several weaknesses with the consultation process: views could only be provided by email; consultation responses were not acknowledged; the time was short. But more fundamental was that it was clear that the date when the naming event would take place, and the agreement with the dissidents who wanted it to take place, had been settled before the consultation commenced, let alone concluded. Preparatory works were even undertaken round the roundabout last week before the consultation concluded – the statement that these were ‘routine works’ was met with understandably universal disbelief. Had there been a genuine consultation then we consider that it is likely that an agreed place, name and other arrangements could have been reached with wide local support, indeed enthusiasm for the project. It is a pity that Camden’s approach to the consultation has meant that the contrary has been achieved.

The rules for such consultations by local authorities have been set down for many years, most recently by the Supreme Court in *R (on the application of Moseley) v London Borough of Haringey* [2014] UKSC 56. That case established that “the requirements of a fair consultation are ...

1. First, that consultation must be at a time when proposals are still at a formative stage.
2. Second, that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response.
3. Third,... that adequate time must be given for consideration and response and,
4. Finally, fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.

Fairness may require that interested persons be consulted not only upon the preferred option but also upon discarded options.”

It is clear in the present case that, although considerable efforts were made to put right the deficiencies in the consultation process, they were efforts in relation to a decision already made, contrary to the first requirement for consultations, and were in any event at such a late stage, that they were too late to permit the 'requirements of a fair consultation', as set down by the Supreme Court, to be met.

We seek your assurance that such an approach to consultation will not happen again, and in particular that Camden is committed to the four principles of fair consultation as set out above.

This is an open letter because adequate consultation is fundamental to democracy. As such it is a matter of importance not just to the Highgate Society but to all the community organisations in Highgate and in wider Camden, and indeed to all the residents of the Borough.

We look forward to your reply.

William Britain
Chair, Highgate Society

Francis Wilkinson
Secretary, Highgate Society

On 17 Nov 2022, at 17:27, Andrew Maughan, LB Camden Borough Solicitor wrote:

Dear Mr Britain and Mr Wilkinson

Thank you for your letter of the 13th November which has been referred to me to reply on behalf of the Leader and the Council.

I have to start by saying on behalf of both the Leader and indeed the Council as a whole that we are always looking to improve our processes and practices and we do therefore very much welcome feedback such as this. I think it's also fair to say that the circumstances surrounding this consultation and naming were unique. We would have liked to have more time for additional consultation and time to engage more thoroughly with residents.

That having been said, and despite our openness to always learn and develop our practice from feedback received - no processes are ever being perfect - we remain content that this consultation and the resulting decision making were lawful.

You have rightly quoted Moseley as the seminal case in which guidance on how a consultation should be conducted was given. We remain content that we did meet all four requirements. What needs to be held in mind is that the guiding principles are a judicial attempt to give guidance for all consultations. Local Authorities consult on numerous issues, the impact upon for example service users various enormously as does the complexity of proposals upon which we are asking for comments. Further the proposals vary from detailed variations to social care policies impacting individuals to proposals such as here which it is suggested are extremely straight forward. We are content that the time allowed here was sufficient to allow informed responses to be received on what was a simple proposition. This is borne out by both the number and quality of the responses we received. Those responses were summarised and considered by the decision maker as can be seen in the decision report which we published on our website.

As mentioned above there were certain arrangements, such as the temporary road closure and certain preparatory works which did have to, should we meet our proposed timeline, begin before the ending of the consultation period and the taking of the final decision. This is not unusual, and all such arrangements were both reversible, modest in nature and appropriately caveated. For example, one can give notice of a road closure and still not actually close the road. However, it is a legal requirement that simply could not be ignored

should we have wanted, after considering the results of the consultation, to have kept to our timetable. The important point is however that it was a timetable which could and would have been abandoned should the decision maker have concluded having considered the results of consultation that the naming should not have gone ahead.

As we know a consultation is not a plebiscite but rather an opportunity to understand and consider the views of those consulted. Therefore, while ultimately, it is not a matter of votes for and against it is noteworthy in this case that we received more comments in favour than against. While you are right to say the proposals generated considerable opposition it generated even greater support. However more importantly all the points made in the consultation were considered and taken into account when the decision to progress the project was made.

You can have both my and the Councils assurance that we are committed to the Moseley principles, and we agree that proper consultation is extremely important both as a legal principle but also as you suggest for wider participative reasons. Further while, given the legal nature of your email, I am replying upon behalf of the Leader and Council, and I am content that this process was legally sound this does not mean we do not seek to learn from these exercises, nor do we dismiss comments such as yours. While legally proper the circumstances here were unique.

Yours sincerely

Andrew Maughan
Borough Solicitor

On 18.11.22 The Chair and Secretary of the Highgate Society wrote in reply to this letter:

Dear Georgia

Community consultation

Thank you for the Borough Solicitor's reply to our letter to you of 13 November.

We referred to the case of Moseley not because we were considering legal proceedings but because it sets out recognised good practice in consultation. Andrew Maughan's reply deals only with the legal issues while our letter raised the more general issue that consultations should aim at achieving consensus, or as close to it as is reasonable. When the impression is given, as it certainly has been in this case, that the arrangements being consulted on had actually been made before the consultation was concluded - indeed before any consultation had taken place - then residents will feel they are excluded and that the arrangements have been foisted on them whether they like them or not. As we pointed out, this is bound to generate opposition.

The circumstances of this case were certainly unusual, but in relevant respects resemble the recent consultation on the one-way system in Millfield Lane. The effects of the arrangements put in place there are quite inconvenient and dangerous at a location with numerous pedestrians entering the Heath as it involves an awkward U-turn for vehicles driving from West Hill down Merton Lane. An obvious alternative option would have been to make Millfield Lane one way starting from the Merton Lane junction but, that option, the best solution - as it seems to local residents - was not considered or consulted on.

The better style of consultation is the one currently underway by Camden in relation to the use of the 271 bus terminus in Highgate village when the terminus is vacated next year. A variety of options have been canvassed, which are open-ended so that further options can be presented, and

we look forward to a process leading to an outcome for the use of that space which will gain general support.

What we seek is your commitment to always adopting consultation processes designed to engage the community, in the spirit of Moseley, with a view to achieving, as far as reasonably possible, consensus. In that respect community organisations such as our own have a recognised role to play.

We look forward to your reply.

William Britain
Chair

Francis Wilkinson
Secretary

The Highgate Society